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A FRIGHTFUL VENGEANCE:
LYNCHING AND CAPITAL PUNISHMENT IN TURN-OF-THE-CENTURY COLORADO

by

JEFFREY A. WERMER

B.A., Reed College, 2006

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Find that both the content and the form meet acceptable presentation standards
Of scholarly work in the above mentioned discipline.

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A Frightful Vengeance: Lynching and Capital Punishment in

Turn-of-the-Century Colorado

Thesis directed by Associate Professor Thomas Andrews

Having abolished the death penalty four years prior, Coloradoans lynched three men—Thomas Reynolds, Calvin Kimblern, and John Preston Porter, Jr.— in 1900, hanging two and burning one at the stake. This thesis argues that these lynchings both represented and supported Colorado's culture of lynching, a combination of social and cultural connections in which lynching was used as a force for social cohesion and control. Rather than being a distinct frontier culture of lynching, Colorado's culture was a slightly attenuated version of the racially-motivated culture of lynching in the Jim Crow South. The three lynchings in 1900 lay at the heart of the political debate over the reinstatement of capital punishment in 1901. After reinstatement, lynchings gradually died away as the state successfully funneled its culture of lynching into state-sanctioned executions.

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I tried to come up with the words to encompass the thanks this next person deserves. I failed. So I'll leave it at this: to Sara Porterfield, most of all.

CONTENTS

CHAPTER

INTRODUCTION: THE EXPRESSIONS OF VIGILANCE	1
I. WESTERN LYNCHING	8
The Death of James Gordon	8
The Lynching of Calvin Kimblern	15
Turning Black Criminals into Monsters	18
II. A CULTURE OF LYNCHING.....	26
The Death of Henry Smith.....	26
Constructing a Culture of Lynching	28
The Death of John Preston Porter, Jr.....	39
III. LYNCHINGS, CAPITAL PUNISHMENT, AND THE DEBATE OVER REFORM	50
From Public Vehemence to Official Indifference	52
Prison Break: The Lynching of Thomas Reynolds	62
Should the State Kill?	67
CONCLUSION: THE LEGACIES OF LYNCHING AND CAPITAL PUNISHMENT	77
BIBLIOGRAPHY	80

INTRODUCTION: THE EXPRESSIONS OF VIGILANCE

In February 2012, George Zimmerman, 28, was voluntarily patrolling a gated community in Sanford, Florida, for the local neighborhood watch when he shot and killed Trayvon Martin, 17, a young man who was walking back to his father's fiancée's house from the store.¹ Though the ensuing controversy focused largely on the debate between gun-control advocates and 2nd amendment supporters, Martin's death at the hands of a member of an extralegal communal watchdog organization illustrates a related American controversy: vigilante violence. While it is easy to think of neighborhood watch associations as representing merely the eyes and ears of an absent police force, the shooting-death of Trayvon Martin reminds us that sometimes these organizations are made up of individuals who wield trigger fingers, too.

While many criticized Zimmerman's actions in terms of racial violence and gun rights, perhaps Americans largely ignored the vigilante nature of Zimmerman's patrolling because of the prominent role of popular justice in the popular imagination; whether noble vigilante or outlaw bandit, violent men are pervasive in Euro-American historical narratives, mythologies, and fiction. Early on, we have stories of Robin Hood, with his ethos of "rob from the rich, give to the poor." In the nineteenth-century American West, stories of gunslingers and frontier lawmen skirted the lines between legal and illegal activity as a force for social cohesion. Quasi-historical, quasi-mythical characters such as Judge Charles Lynch (for whom the term "lynching" may well be named), Jesse James, and Billy the Kid lead directly into modern depictions of vigilance: Superman, Batman, Dirty Harry, Dexter. Vigilance can be found in less obvious places as well: the Harry Potter series for instance.

¹ "Who are Trayvon Martin and George Zimmerman," *BBC News*, April 11, 2012, accessed December 11, 2012. <http://www.bbc.co.uk/news/world-us-canada-17682245>

Although American vigilantes have taken lives for several centuries under a variety of guises, this thesis examines nineteenth-century expressions of vigilante justice such as when the People's Court of Denver hanged Jim Gordon, a young white man, for the murder of John Gantz in a saloon in 1860. Authorities in Lawrence, Kansas acquitted Gordon after determining that they did not have jurisdiction in the newly-formed Colorado Territory. The People's Court assembled extralegally and took justice upon itself. Thirty-three years later, a crowd of thousands lynched Henry Smith, an African-American man, after accusing him of sexually assaulting and murdering a 3-year-old white girl. Smith was lynched in the light of day; the mob paraded Smith through the streets of Paris, Texas, burning and torturing the man for over an hour before they hanged him. All the while, a crowd of thousands rejoiced and celebrated the "justice" that was done, documenting the murder in photographs for keepsakes and for posterity. In 1955, two men beat and shot a fourteen-year-old African American boy to death in Mississippi for "wolf-whistling" at a white woman. No crowd was involved in this private murder; however, the images of Emmett Till's corpse, released by *Jet* magazine and carried in newspapers across the United States, are perhaps the most notorious to date.

Only two of these murders fit the criteria of lynching set out by the Tuskegee Institute, which began compiling a nation-wide record of lynching in 1892: "There must be legal evidence that a person was killed. That person must have met death illegally. A group of three or more persons must have participated in the killing. The group must have acted under the pretext of service to justice, race or tradition."² The fact that Emmett Till's death is one of the most famous examples of lynching in America and, at the same time, not technically a lynching—only two men directly participated in his killing—illustrates just how malleable the term is.

Throughout American history, groups of like-minded individuals have come together in

² Quoted in Ken Gonzales-Day, *Lynching in the West, 1851-1935* (Durham: Duke University Press, 2006), 11.

illegal acts of spectacular violence—that is, overstated violence intended not simply to extinguish a victim’s life, but to convey a message. As Richard Maxwell Brown noted in *Strain of Violence* (1975), “violence has been a determinant of both the form and substance of American life... Often perceiving a grave menace to social stability in the unsettled conditions of frontier life and racial, ethnic, urban, and industrial unrest, solid citizens rallied to the cause of community order.”³ Though Americans like to think of their nation as founded upon ideas, extralegal violence has continually served a vital purpose in establishing and reinforcing social behavior.

Extralegal, violent social control (what I refer to in the rest of this thesis as “vigilance”) is diffuse and its manifestations are particular, contingent upon time, place, and social factors. Some lynchings mimicked legal executions, complete with an ad hoc trial, judge, and jury. Some were spontaneous shootings or stabbings; others involved ritualized torture and a symbolic parade. Some were done in public on the courthouse lawn, while others were done in the dark of night and with the added anonymity of a white hood. Some were racially motivated—white-on-black violence—while others were white-on-white murders, ostensibly motivated by horse and cattle theft. Predominantly a tool of the majority against the few, minority groups have employed vigilante tactics infrequently; their organizations seen at best as “freedom fighters” and “regulators”, but, more often, as “terrorists”.⁴

Despite such diversity, vigilance tends to be remembered in two distinct and general ways. The first is tied very closely to the term “lynching” and makes nuanced discussion of the term difficult at best. This is the lynching of the Jim Crow South, a violent expression of social control rooted in white supremacy. Southern lynchings involved a black victim or victims and a white mob. They were typically motivated by an actual crime—often the rape of a white

³ Richard Maxwell Brown. *Strain of Violence: Historical Studies of American Violence and Vigilantism*. Oxford: Oxford University Press, 1975: 4.

⁴ The violent abolitionist John Brown serves as an excellent example of this latter category of vigilante.

woman—but the mob’s investigation into the crime was cursory at best.

A vast majority of Americans have come to loathe their history of lynching, viewing this systemic, violent white supremacy as brutal and barbaric. A quick glance at the photographs of Emmett Till’s brutalized body or Henry Smith’s incinerated corpse atop a pyre is enough to turn the stomach of the average American. It is this specific history of vigilance that Clarence Thomas highlighted when he was confronted with allegations of sexual misconduct during his Supreme Court nomination hearing in 1991: “This is a circus... It is a high-tech lynching for uppity blacks who in any way deign to think for themselves, to do for themselves, to have different ideas, and it is a message that unless you kowtow to an old order, this will happen to you. You will be lynched, destroyed, caricatured by a committee of the U. S. Senate rather than hung from a tree.”⁵ Thomas invoked a memory of race-motivated lynching. In essence, he reminded the U.S. Senate—and all Americans—that white Americans habitually lynched black Americans in order to keep them out of positions of social and economic power.⁶ This memory of lynching was one Thomas used to shame his critics and political enemies. His statement shows just how far removed from actual lynching modern Americans have come—he was in no imminent physical danger—how powerful memories of this white supremacist system of racial violence continue to loom.

Although the second general remembrance of vigilance, frontier vigilantes, was just as diverse in practice as southern lynchings, it is generally remembered to be more orderly and more necessary. The terms “vigilance committee” and “vigilante” are most commonly associated with the United States’s frontier, with a rough-and-tumble frontier, a place where law and order were lacking and upstanding citizens did what needed to be done. Yet frontier vigilance

⁵ “Hearing of the Senate Judiciary Committee on the Nomination of Clarence Thomas to the Supreme Court.” University of Virginia Library. *Electronic Text Center*. Accessed May 5, 2013. <http://etext.lib.virginia.edu/>.

⁶ Lynchings were not only used to police sexual behavior, but also used as a means to intimidate African Americans in all manner of social and economic life.

committees and southern lynch mobs performed the same actions: they abducted and murdered men—and, far less commonly, women—without due process of law. Where today Americans find lynch mobs to be loathsome, considerable romanticism still adheres to the cowboy vigilante. Take, for example, the recent HBO series *Deadwood*, a show that strives to be both entertaining and historically accurate. In the pilot episode, Wild Bill Hickock and Seth Bullock take it upon themselves to bring justice to the murderer of a European immigrant family. The small posse shoots and kills the accused: a young, lower-class white man. The viewer, although shocked by such sudden violence, cannot help but support Hickock and Bullock in their pursuit of vengeance and justice. *Deadwood*, here, employs a memory that treats the violence of frontier justice as a necessary evil.⁷

All of these examples engage the memory of vigilantism: extralegal, violent attempts to maintain a perceived status quo. However, the meanings and the implications of these memories are not at all similar. Clarence Thomas's "high-tech lynching" invokes feelings of loathing and shame, while *Deadwood*'s posse brings up feelings of regret, but also of satisfaction. This all leads to a simple question, one that can be answered historically: Why are Americans so quick to justify frontier vigilance even as they rightfully castigate Southern lynching? But before one can answer this question, another needs to be asked: Were Western acts of vigilance really so different from Southern lynching?

This thesis challenges the disassociation of Southern and frontier vigilance by looking at the history of lynching in turn-of-the-century Colorado. In 1896, the Colorado legislature, in a near unanimous vote, abolished capital punishment with little discussion. Five years later, the same body reinstated the death penalty. A grand and forward-looking experiment in criminal punishment appeared to have failed. The legislature's change in course resulted in no small part

⁷ *Deadwood*, "Deadwood," *Deadwood: Season 1* DVD, 2005.

from an upswing of vigilantism after the death penalty was banned. A year earlier, three separate Colorado mobs lynched a trio of alleged criminals—Thomas Reynolds, Calvin Kimblern, and John Preston Porter, Jr. Colorado's five-year flirtation with abolishing the death penalty provides an excellent opportunity to study frontier lynching. This thesis questions the separation of turn-of-the-century Colorado lynchings from the broader system of white supremacist violence in the Jim Crow South.

Chapter One discusses the first frontier style of lynching by using an exemplar—James Gordon's death by Denver's People's Court—before moving on to discuss the two 1900 lynchings against African American victims: Calvin Kimblern and John Preston Porter, Jr. By contrasting the cases of Kimblern and Porter with that of Gordon, this thesis argues that the two African Americans were lynched for reasons of race and white supremacy. Chapter Two takes up this argument by showing how Henry Smith's death in Paris, Texas, in 1893 was motivated by race and by a culture of lynching which permeated the South. Smith's lynching, like that of so many other black men, was a performative action—a murder perpetrated by dozens in front of a crowd that numbered in the thousands. Lynchings were at once conservative expressions of a status quo, rituals, symbols, and spectacles offering gruesome entertainment to an eager audience. Chapter Two argues that Southern lynchings took place within this culture of lynching in the South, a matrix of social and cultural symbols and expressions which each lynching embodied and communicated. It then tells the story of John Preston Porter's death, whose murder reveals similar elements in Colorado's own culture of lynching. Chapter Three further argues for the extension of this culture of lynching into the West by first looking to the indifferent actions taken by politicians after the Porter and Kimblern lynchings. The chapter then turns to the lynching of Thomas Reynolds, a white prison escapee, and the correspondence between Governor Charles Thomas and

those who criticized and supported his administration in the wake of the widely-publicized escalation in lynching in Colorado in 1900. It then places the lynchings of Porter, Kimblern, and Reynolds in context, showing how Colorado's lynching culture was, at once, specific to this stretch of the West—especially the debate over capital punishment and whether or not criminals could be reformed—and just a slightly attenuated form of the Southern culture of lynching.

This thesis finds that the 1900 lynchings in Colorado relied upon a combination of conservative social control asserted by a white majority over African-Americans and lower-class whites, a performative ritual wherein communities derived entertainment and victim's families sought catharsis, and Coloradoans displayed to their legislators that they desired to see criminals punished violently. The State of Colorado, having abolished the death penalty in 1896, was in the midst of a debate over the merits of this criminal justice reform. Private citizens and public officials alike used the three lynchings as ammunition against abolition. The reform, they argued, had failed because it did nothing to address the existence of society's "criminal elements"—non-whites and lower-class whites. These advocates argued that, until society had advanced to exclude such inherent criminality, the death penalty served as a necessary punitive tool; it communicated to these criminals that the state would not tolerate transgression. Pro-death penalty advocates reinstated capital punishment just a few months after the final lynching studied in this thesis; over the next two decades, lynching became less frequent as the death penalty took the lives of Colorado's most infamous criminals until finally dying away after 1919. Coloradoans successfully funneled their culture of lynching into the retributive power of state-sanctioned executions.

I. WESTERN LYNCHING

This chapter challenges the idea that lynching in the US West should be thought of as separate from the barbaric lynchings of black men in the Jim Crow South, both in histories and in the popular imagination.⁸ It begins by identifying and exploring a paradigmatic expression of Western vigilante justice: the 1860 hanging of James Gordon by the People's Court of Denver. While relatively unknown, this lynching is representative of the type of vigilante act that later lynching apologists, like pioneering historian of the American West Hubert Howe Bancroft, would draw upon. This chapter will then review the two 1900 Colorado lynchings of African American men—first by telling the story of Calvin Kimblern's death and second by examining the racially-charged rhetoric employed by private citizens and newspapers—in order to show how little their deaths had in common with Jim Gordon's.

The Death of James Gordon

Whereas southern lynchings are now despised and derided as a barbaric knee-jerk response to the sudden abolition of slavery,⁹ vigilante justice on the frontier of the United States in the late nineteenth century evokes a different set of memories and emotions. Today, one thinks of white hats fighting black hats, but the idea that the frontier was a rough country settled by rough men who sometimes had to resort to rough justice is not new. It is a regional origin story for the West, one that resonated with its inhabitants then as much as it does to Americans today. In this section, I will discuss the hanging of Jim Gordon in Denver in 1860 for the murder of

⁸ For more on this idea, see Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in the Twentieth-Century*. (New York: Atheneum, 1992).

⁹ James Elbert Cutler, among others, holds this attitude in James Elbert Cutler, *Lynch-Law: An Investigation into the History of Lynching in the United States* (New York: Longmans, Green, and Co., 1905).

John Gantz. In Jim Gordon's drunken rampage, murderous act, flight from justice, and death at the hands of a vigilance committee one can see the intended meaning of vigilante justice in the West, the romanticized version of events. I will argue that in Gordon's lynching and in the subsequent interpretation of his hanging by contemporary newspapers and later, booster historians, one can see a paradigm of Western vigilante justice, wherein a group of upstanding citizens, burdened by a violent frontier and an ineffective legal system, extralegally murder a heinous offender.

The story of James Gordon and John Gantz appeared in newspapers around Colorado and the United States as well as several early histories of Colorado. By all accounts, James Gordon was a likable young man, twenty-three years of age at the time of his death. A man of middling means, he was a co-owner of the Cibola Saloon.¹⁰ The story of his death began on July 18, 1860, when he got drunk. For the next two days, he raised hell around Denver; according to the *Rocky Mountain News*, Gordon shot randomly at objects and people around Denver, shooting a dog which "was crouched between its owner's legs."¹¹ As if this were not enough, the act of his drinking itself led to fits of disorder and blasphemy. He would no sooner walk into a saloon and drain a glass of whiskey before he broke the glass on the ground. On the night of July 20, Gordon knocked John Gantz down in a local watering hole, grabbed him by the hair, and shot him from point blank range. Magnifying the horror of the scene even more, Gordon pulled the trigger five times. His first four shots misfired; it was on the fifth shot that he finally killed John Gantz.¹²

Gordon fled Denver after murdering Gantz, narrowly avoiding capture at nearby Fort

¹⁰ Frank Hall, *History of the State of Colorado, Embracing Accounts of the Pre-historic Races and Their Remains: The Earliest Spanish, French and American Explorations ... the First American Settlements Founded; the Original Discoveries of Gold in the Rocky Mountains; the Development of Cities and Towns, with the Various Phases of Industrial and Political Transition, from 1858 to 1890, vol. 1* (Chicago: Blakely print. Company, 1895), 237.

¹¹ *Rocky Mountain News*, July 25, 1860.

¹² Ibid.

Lupton and fleeing east to Lawrence. The Denver vigilance committee of 1859-1860 (known to themselves as the People's Court) sent a posse east under the supervision of Denver Sheriff William H. Middaugh.¹³ The sheriff pursued Gordon to Kansas, finally capturing him days later. Although Middaugh wanted to escort Gordon back to Denver to be tried by the People's Court, he bowed to the Kansas authorities and brought Gordon to Leavenworth for trial. Judge John Pettit ruled that Gordon had, in lynching historian Stephen J. Leonard's words, "had the good fortune to have murdered Gantz in a jurisdictional void" as he had committed the crime in a county which "was not under the authority of any court."¹⁴ The judge then released Gordon to the mercy of a belligerent crowd; the crowd turned on the young murderer, attacking him and putting a rope around his neck, before Middaugh and a few other men saved Gordon from the would-be lynch-mob. Middaugh and company escorted Gordon to Denver to face another trial under the extralegal People's Court. That body ordered him to be hanged on October 6, 1860.

The People's Court likely felt the need to execute Gordon, not just for his individual crime, but also because of the type of man he represented. Gordon was an early resident of Denver. Counted among "the sporting men"¹⁵ and as a saloon operator and owner, it seems that his socio-economic status separated him from "city founders," such as William Larimer and William N. Byers. Gordon was neither a leader in the city, nor a vagrant. He was an exemplar of a certain type of man, as David Courtwright calls them in his book, *Violent Land: Single Men and Social Disorder from the Frontier to the Inner City* (1996), men of "troublesome elements": "widespread bachelorhood, sensitivity to honor, racial hostility, heavy drinking, religious indifference, group indulgence in vice, [and] ubiquitous armament."¹⁶ Fueled by alcohol and a

¹³ Calvin W. Gower. "Vigilantes." *Colorado Magazine*, Spring 1964: 94.

¹⁴ Stephen J. Leonard. *Lynching in Colorado, 1859-1919* (Boulder: University Press of Colorado, 2002), 25.

¹⁵ *Rocky Mountain News*, July 25, 1860.

¹⁶ David T. Courtwright. *Violent Land: Single Men and Social Disorder from the Frontier to the Inner City*

prickly ego, men like Gordon were thought of as generally violent and of ill repute.

Yet even as they sought to illegally murder him, the People's Court wished to portray a sense of law and order in their city, knowing that the ordeal of Jim Gordon was widely reported across the United States as the events unfolded. Gordon was given a trial with several judges, a jury, and his own defense team. The trial moved fast and, as Stephen Leonard points out, "the jury took only twenty minutes to convict him."¹⁷ In addition, Gordon had already been tried by a court with the legal backing of the United States. This court, as discussed above, acquitted him on a jurisdictional basis, but the People's Court of Denver decided to try him anyway—and to execute the sentence on which it had determined. Thus, it was extremely important for Denver's reputation and its continued economic growth for the city to represent itself as an arbiter of legality, albeit one with no actual legal backing. If found otherwise, the People's Court would have been no better than the man they had killed.

What was going on in Denver that the People's Court felt it had to extralegally punish Jim Gordon? Between 1859 and 1860, Denver seemed to be experiencing a rash of killings, thefts, burglaries which the residents of the town answered in the form of a vigilante movement. According to Stephen Leonard, Denver's first, and quite secret, vigilance committee was made up of the town's upper echelons: future Colorado territorial governor Alexander C. Hunt, Methodist church leader and Civil War veteran John M. Chivington, Sheriff William Middaugh, businessman William Larimer, *Rocky Mountain News* editor William N. Byers, and others.¹⁸ Contemporary newspaper articles revealed the town's speculation over the quasi-legal nature of the People's Courts and the totally illegal nature of spontaneous lynchings. Since the leading men of the city, named above, were the suspected leaders of these early lynchings, the Gordon trial, by its

(Cambridge, Mass: Harvard University Press, 1996), 3.

¹⁷ Leonard, *Lynching in Colorado*, 25.

¹⁸ *Ibid.*, 23.

longevity and its notoriety, became a way for the city's elite to transfer lynching from the few to the many. Just as the *Rocky Mountain News* sought to justify the People's Court in real time, the early booster historians of Colorado did so in retrospect.

The People's Court wished to establish Denver on the just side of the spectrum of vigilante activity. Similar vigilante movements in California provide a useful model for understanding how the leaders of Denver's People's Court were trying to accomplish this feat with the illegal trial and punishment of Jim Gordon. As Hubert Howe Bancroft did with his influential interpretation of the San Francisco Vigilance Committees of 1851 and 1856 in *Popular Tribunals* (1887), Colorado's early historians argued that despite its shaky legality, the People's Court nonetheless embodied natural law even as it broke man's law. Describing the frontier, Bancroft argued that "upon this border, as upon the edge of mighty fermentations, accumulated the scum of the commonwealth. The spirit of evil was ever strong and government was weak. Society there was low and brutal, and the lynchers were not always much better than the lynched."¹⁹ Bancroft was not an apologist of all lynchings, but of lynchings led by the community's most respectable men, who formed vigilance committees, conducted trials, and hanged criminals in an orderly fashion. While Bancroft used the San Francisco Vigilance Committees of 1851 and 1856 as his paradigmatic expressions of extralegal justice, Wilbur Fiske Stone saw Denver in the same light. In his history of Colorado, Stone explicitly referenced the Gordon trial as an exemplar of the justice of Denver's People's Courts.²⁰ Stone eschewed the more complicated story of the Gordon trial. Gordon's near-lynching at the hands of the Kansas mob became yet another example of the nobility of popular justice: "a mob turned him [Gordon] over to the Colorado sheriff."²¹ Similarly, Jerome Smiley quickly summarized the history of the People's Court by endorsing its

¹⁹ Hubert Howe Bancroft, *Popular Tribunals Vol. I* (San Francisco: The History Company, Publishers, 1887), 7.

²⁰ Wilbur Fiske Stone, *History of Colorado* (Chicago: S. J. Clarke, 1918), 172.

²¹ *Ibid.*, 172.

motivations, describing a town which defended itself against, “murderous scoundrels and provoking thieves” by organizing emergency courts, “to try offenders and to execute those who were convicted of what were held to be capital crimes.”²² Smiley’s and Stone’s histories both exemplify what Bancroft called the Doctrine of Vigilance, which held that a majority of people in a community had the right and the duty to safeguard the laws and offices of their government and, when they found government officials to be lax in their duty, to “rise in their sovereign privilege and remove such unfaithful servants, lawfully if possible, arbitrarily if necessary.”²³ This Doctrine of Vigilance described a sliding scale of extralegal action based on the intent of the actors. Bancroft, recognizing that the tactics used by vigilance committees in the name of justice were often used for greed and antisocial purposes, placed bandits and thieves on one end of the spectrum; on the other were the San Francisco Vigilance Committees. In between the two extremes were small and spontaneous lynch mobs led by citizens of lower social standing. Frank Hall’s early history, while not as one-sided as those of Stone and Smiley, expressed similar enthusiasm about the justness of the Denver People’s Courts’ actions.²⁴

It is perhaps not surprising that all three booster histories paint Denver citizens in a positive light. While Jerome Smiley did not arrive in Colorado until the 1890s, Wilbur Fiske Stone was both a resident and active community member in and around Denver as early as the spring of 1860. Furthermore, according to Smiley, it was Stone, along with George A. Hinsdale, who “organized a district government and established a ‘People’s Court’ at [Canon City].”²⁵ Stone went on to serve in the territorial government, both in the legislature and as district attorney for the Third Judicial District which represented Pueblo., before turning to journalism

²² Jerome C. Smiley, ed. *Semi-centennial History of the State of Colorado* (Chicago; New York: The Lewis Publishing Company, 1913), 294.

²³ Bancroft, *Popular Tribunals*, 9.

²⁴ Hall, *History of the State of Colorado*, 239-240.

²⁵ Smiley, *Semi-centennial History of the State of Colorado*, volume II, 9.

and, finally, to history.²⁶ Frank Hall's relationship to Colorado is no less intertwined. Hall served as town booster before becoming a booster historian. He lobbied to have Colorado Territory represented at the International Exposition of 1867 in Paris, France. A firm Republican, he acted as territorial secretary from 1866 to 1874.²⁷ Both Hall and Stone had good reasons to legitimize the extralegal People's Courts of Colorado, Stone especially since he organized one himself.

These three histories all leave out how the extralegal justice to be found in Denver upon Gordon's arrival was not necessarily in stark contrast to spontaneous lynchings, such as when the crowd in Leavenworth attempted to seize Gordon out of police captivity and hang him without delay. On October 3rd, just three days before Gordon's hanging, the *New York Herald* reported on the transportation of Gordon from Leavenworth to Denver via stagecoach.²⁸ Denver's own citizens were quite aware that the eyes of the American nation were focused on Gordon's fate; the editors of the *Rocky Mountain News* wrote on October 1, while reporting the details of the trial, "The eyes of tens of thousands in the States are turned to Denver, and watching with intense interest the result of this long and exciting struggle. Almost every newspaper in the United States has published the account."²⁹ These quotes indicate that citizens of Denver, the actors in the trial—whether judge, jury, prosecutors, or defense counsel—were aware of the importance of their decisions. American perceptions of Denver, of what was then called sometimes Montana Country, sometimes Kansas Territory, depended upon an appropriate expression of extralegal justice; they depended upon the People's Courts. By leaving aside some of the complexities of the actual events—Stone's omission of the Kansas near-lynching, all three author's omissions of the protests and petitions after the trial to free Gordon—these early historians served to boost Denver

²⁶ Ibid., 9.

²⁷ Carl Abbott, Stephen J. Leonard, and Thomas J. Noel, *Colorado: a History of the Centennial State*. 4th ed. (Boulder, Colo: University Press of Colorado, 2005), 96.

²⁸ *New York Herald*, October 3, 1860.

²⁹ *Rocky Mountain News*, October 1, 1860.

and Colorado. By distilling the nature of extralegal killings by vigilance committees into a necessary evil, these historians likely sought to place Denver and Colorado on the noble end of Bancroft's vigilance spectrum.

In both the contemporary press and later histories, the lynching of Jim Gordon represented the archetype of Western vigilance. It was fast and orderly, seemingly carried out with the consent of and by an entire community. It represented, moreover, an unfortunately necessary act of barbarism—one prosecuted to advance the worthy goal of defending the social and legal order. Gordon's hanging mimicked a court trial and execution so thoroughly that it might very well have been a state-sanctioned killing, had it not been for the technicality that the People's Court held no official jurisdiction within Colorado Territory. Gordon's death both invoked the memory of San Francisco's Vigilance Committees and might well have inspired orderly Western lynchings of its own.

Having established the archetype of Western vigilance in Jim Gordon's illegal trial and execution, this thesis argues that it does not adequately describe the three lynchings of 1900 Colorado. Indeed, it is exactly this memory of frontier justice—hard men doing hard things in the name of social stability and in the absence of an effective government—that I will argue against. The three 1900 lynchings look nothing like Gordon's orderly trial and quick hanging. By comparing the deaths of Calvin Kimblern and John Preston Porter, Jr., this thesis argues that race and white supremacy were essential to these lynchings.

The Lynching of Calvin Kimblern

The lynching of Calvin Kimblern was markedly unlike Jim Gordon's death. Never tried, he was taken from the police by a mob of thousands, beaten, and hanged. His death began around

1:30 a.m. on May 20, 1900, when Kimblern began to argue with his wife at the Fries Home for Orphans in Pueblo, Colorado. Kimblern's wife, known as Aunt Hattie to the girl inmates of the institution, accused Kimblern of sexually assaulting two of the girls, Ethel Straussen and Jessie M. Skaggs. Upon arguing with his wife, Kimblern shot her in the arm and across the neck before entering the room where the girls slept. According to the bedmate of Ethel Straussen, an eight-year-old named Christina Carlson, Kimblern entered the room with Aunt Hattie in tow. He was "treating Aunt Hattie bad and push[ing] her around the room."³⁰ He then came to the bed in which Ethel and Christina slept, turned to Ethel and spoke: "I am going to punish you for the lies you told on me."³¹ Kimblern fired his gun three times and then moved over to Jessie's bed.

Standing over his other victim, he spoke the same words and fired his gun, his bullet mortally wounding the younger girl. Aunt Hattie fled from the room and Kimblern followed, shooting at her again. At some point, he took the time to reload. Kimblern reentered the room and fired more bullets into Ethel Straussen. According to Christina, Jessie begged him for her life at this point, but Kimblern came over and fired once more, murdering the girl. Kimblern fled the home and the town. Christina, still sharing her bed with Ethel, listened to the girl's ragged breathing and felt the blood soaking into her nightgown, unable to move or to sleep.³²

For three weeks before the murders took place, Calvin Kimblern and his wife had been working at the Fries home, he as a cook and she as a nurse and chambermaid,. Kimblern, a former corporal in the United States infantry and veteran of the Philippine Insurgency, was said to be an intelligent man with a "clear, clean manner and dress."³³ After the double murder and attempted murder of his wife, he made his way to Denver, his previous place of residence. The

³⁰ *The Denver Times*, May 21, 1900.

³¹ Ibid.

³² Ibid.

³³ Ibid.

next day, while Kimblern was drinking in a saloon at 19th and Larimer in downtown Denver, Denver Police detectives Gregory and Connors began searching local watering holes after learning from the Pueblo Police that the murderer fled to their city. The detectives came across Kimblern, who immediately admitted his identity and surrendered. He then confessed to the crime, saying that he remembered little of the event and that he just grabbed his gun and began to fire.³⁴

After his arrest that afternoon, the police loaded him onto the evening train back to Pueblo. When his train arrived, 6,000 men and boys waited—so Denver authorities had told Pueblo counterparts that he was on his way. Described as “orderly and quiet,” the mob was cut through with jeers and jokes. The thousands swarmed over the Denver and Rio Grande depot, closing down all tracks and disembarkation points. Having gathered in the mid-afternoon, the mob stopped and searched several trains, letting them go on their way when Kimblern was not found.

The police officers accompanying Kimblern neither hid the man’s identity nor attempted to secure him: “Long before the train approached Pueblo all of the officers had emptied their revolvers lest by any chance blood should be shed in a feint attempt at protection.”³⁵ Having disarmed, they opened a door to the train and allowed Kimblern to disembark. The mob slipped a noose around his neck and dragged him three blocks to a telephone pole. Although, many newspapers including the *Denver Times* described the scene as orderly and without torture of any sort, Kimblern clearly experienced rough treatment: “A hundred willing hands seized the rope, and, yelling and cheering as though at a festival, they started across the track. The negro’s head and face were smashed horribly against the rails as he was dragged ruthlessly along.”³⁶ Several men climbed up the pole and slipped the noose over the crossbar. The crowd pulled Kimblern into the

³⁴ *Aspen Daily Times*, May 23, 1900.

³⁵ *Basalt Journal*, May 26, 1900.

³⁶ *Ibid.*

air only to have the rope snap; he plummeted back to the earth. A newspaper boy scaled the pole and repositioned the newly-tied rope over the crossbar once more. Again, Kimblern flew and again he fell, the rope snapping a second time. On the third attempt, the murderer was successfully lynched.

After his death, the crowd dispersed. Some few men went over to the Grand Hotel and contacted several undertakers by wire to dispose of the body. Each undertaker refused. Early the next morning, Kimblern's body was retrieved by persons unknown and "dumped into an unmarked grave without coffin or ceremony, and hurriedly covered up."³⁷ Aunt Hattie, taken to a local hospital, was successfully repaired by local doctors. However, upon hearing of her husband's death, she went into hiding, aided by the hospital staff and doctors. She feared that the mob would assume her to be an accomplice to his crimes despite her accusing him personally and to the police. Indeed, some men of the mob did come to the hospital and demanded her location, but the physicians refused to give it. Reporting of the murder and the lynching died down over the next few days. No paper deigned to cover what happened to Hattie Kimblern.³⁸

Turning Black Criminals into Monsters

Rather than following in the tradition of the orderly mock-trial lynching of James Gordon forty years earlier, Calvin Kimblern's death was largely motivated by race and white supremacy. So, too, was the death of John Preston Porter, Jr., in November of the same year. While this thesis will further explore the circumstances of Porter's death in Part Two, his death points to the racially-motivated nature of Colorado lynchings. After confessing, both men were removed from police custody and lynched without trial—legal or otherwise—by mobs of hundreds. A close

³⁷ *Aspen Weekly Times*, May 24, 1900.

³⁸ For example, the *Denver Times* does not cover her whereabouts after their last issue on Kimblern's lynching on May, 24, 1900.

examination of the lynchings reveals that these lynchings were about much more than retribution for individual crimes: their deaths were due in large part to their race. Through their victimization and their deaths, Kimblern and Porter became symbols to both the white and black communities of Colorado. To African-Americans, their deaths reflected what African-Americans learned in the extralegal violence of the Jim Crow South: your lives are forfeit should whites even think you've committed a certain crime. To whites, their deaths, though barbaric, symbolized a restoration of balance, an affirmation on the appropriate ordering of society.

The United States, then as now, has a history of turning its criminals into monsters. In the rhetoric of the *Denver Times* and other Colorado newspapers reporting the crimes and deaths of Porter and Kimblern, one can see commonalities in the language the papers used to describe these men. In both cases, white newspaper writers and editors found it necessary to turn Porter and Kimblern into "brutes" and "savages" not merely in terms of the violence they were accused of having done, but in terms of their race.

Both Porter and Kimblern were accused of sexual assault and murder of white girls and both died for these accusations. However, their alleged crimes are not all that similar. For one, there was no question as to the guilt of Calvin Kimblern. As soon as he committed the crime, inmates of the Fries home and Kimblern's own wife accused him of doing the deed. Louise Frost's murderer, on the other hand, was an unknown. The police only closed in on Porter after many false arrests both in Denver and Limon.

Despite the differences between the two cases, Coloradoans used a very similar language to describe the two men. Even in newspapers which condemned the lynching of Kimblern, he was described as brutish and subhuman: "Kimblern, the negro ravisher of innocence and atrocious murderer of defenseless women and children, more than deserved the punishment meted out to

him by the deliriously enraged citizens of Pueblo.”³⁹ Although this article went on to describe lynch law as a perversion of justice, it nevertheless Kimblern as guilty of the crime and of being less than human. The paper had “no mawkish sympathy for Kimblern or any such as he, for it is impossible for the brain of man to invent a penalty to fit his fiendish crime.”⁴⁰ While the *Courier* found the lynching itself to be barbaric, it was not because a brute such as Kimblern did not warrant such harsh treatment. Rather, it was because lynching brought barbarism upon entire communities by forcing their hands to mete out violent punishments. The *Denver Times* described Kimblern as “silent and strangely apathetic. When arrested in the afternoon he showed no inclination to keep back anything and even seemed to want to talk about it. He ate heartily at the jail and seemed in no way depressed by the prospect of spending a term in the penitentiary, which he knew was the worst the law could do to him, even if he did not escape by some technical loophole.”⁴¹ The newspaper described a man who was a paradox, both silent and talkative. It portrayed him as completely unafraid of the official criminal justice system because of his knowledge of its flawed workings. According to the paper, Kimblern had nothing to fear from the penitentiary, knowing his sentence would be either short or non-existent due to the weakness of the law.

On the same day, the *Times* printed a transcription of letter from Kimblern to his mother in Pennsylvania. Kimblern’s letter described the accusations against him and alluded to his plans to murder his wife and the girls; as such, the letter gave the *Times* a golden opportunity to cast Kimblern as cold-blooded:

My Own Dearest Mother: I take the pleasure in writing you a few lines to let you know I have come to the end at last. Mother, you know my dear old father

³⁹ *Fort Collins Weekly Courier*, May 31, 1900.

⁴⁰ *Ibid.*

⁴¹ *The Denver Times*, May 23, 1900.

died when I was in war in the Philippines, and you wrote and told me about it. That was the saddest day of my whole life when I read that letter, and I haven't been right since. I loved my father and the woman I married better than my own life. You know I told you in my letter I found one that I loved, and if I had not loved her I would not have married her. I have turned good women away, for I did not love anyone on earth as I loved her, and I tried to get along with her, but she was young and would listen to what other people would say. God is my judge, and He knows I am telling the truth.

I never told her a lie in my life, and now she has listened to a lie that was told on me by a white girl that is staying where I work, and also another one I used to play with so much. She got jealous and wrote me a letter this morning, telling me of some of the thing I had done and she knew I would not do anything wrong except play with any of them. I hope you will not grieve after me when I am gone, for you know I am a full-blooded Kimblern and won't take anything of no one on God's green earth if it is wrong doings, you know I never liked my brother after he tried to beat me on account of his wife's talk and tried to kill him for it, but could not do as I wanted. So good-bye, mother and sisters, I will follow my dear father soon.

Your son, CALVIN KIMBLERN⁴²

This letter, never mailed, but apparently found in a trunk of Kimblern's affects at the Fries home by Sheriff Beaman, shows a son who loves his family, even after his wife believed falsely that he sexually assaulted young girls. It shows a man who was a soldier for the United States and still grieving for the loss of his father. And yet, sandwiched between stories of his own confession and the accusations of Christina Carlson and Kimblern's own wife, the letter reads as a sinister condemnation of Calvin Kimblern. Taken alongside the *Time's* portrayal of Kimblern as criminally-minded and astute, the letter's message reveals a liar, on the one hand defending himself against the accusations of his wife and the two girls, and a cold-blooded murderer, who will go from his writing desk to sexually assault and kill those troubling him, wife and orphans alike. I believe that the newspaper editors purposefully placed the letter with the intent to reveal it as a calculated ploy for a son to redeem himself in his mother's eyes.

Although Porter's guilt was far less apparent than Kimblern's, citizens and newspapers were even more forward with their denigration of the accused Limon man, almost certainly

⁴² Ibid.

because his story was consumed more fervently than Kimblern's. The murderer of Louise Frost was, at first, a mystery. There were no witnesses to the crime and a decided lack of clues to go on. Before the police even knew who they were looking for, they believed that race could be an identifying marker of the criminal. According to the *Denver Times*: "The police have no description of the man and are therefore greatly handicapped in their work, but they are proceeding on the theory that the murderer was a negro, and any negro who hails from Limon or has lately been in that vicinity is subject to suspicion."⁴³ This theory was further added to with a description of the type of personality the murderer must have: "The latest theory in regard to the affair is that the murder was committed by a maniac."⁴⁴ John Preston Porter, Jr., along with his brother and father, was among the African-American men and tramps rounded up by authorities across Colorado.

Having been arrested for being a black man who had the misfortune of having been in the general vicinity of the crime, the papers began to describe the boy and his family as by turns an idiotic imbecile, and a cunning predator. Porter spent a day in prison with the police and community oscillating between thinking him innocent and guilty. Finally, community pressure settled on guilty after the police found a pile of burned clothes in the boxcar in which he and his family had previously occupied. The newspapers leapt upon his guilt with a vengeance, publishing a copy of his written confession and describing the entire interrogation process. The rather mild language the *Times* had used up until this point dropped away and, instead, the paper began to print stories laced with Porter's suspected evil nature, describing the "calmness of the inhuman boy" when put to torture and interrogation.⁴⁵ As with Kimblern, once the newspaper had decided upon Porter's guilt, he became a "fiend."

⁴³ *The Denver Times*, Nov. 10, 1900.

⁴⁴ *Ibid.*

⁴⁵ *The Denver Times*, Nov. 15, 1900.

Of particular importance was the paper's invocation of E.W. Frost, the grieving father of murdered Louise. Throughout the search for the murderer, the capture and interrogation of Porter, and his lynching, the *Times* and other Colorado newspapers informed their communities about the health and sanity of the father. On the day that the *Times* reported of Porter's confession, it quoted Frost as saying, "It would be better for the community... if the people of Denver get together and exterminate the rest of the family. The poison is in the blood. The other son has served a term for the same crime, and the father is no better than his sons."⁴⁶ E.W. Frost did more than condemn John Preston Porter, Jr.; he condemned the whole family.

Upon his confession, a mob surrounded the Denver jail in which John Preston Porter was held. The brutality of his alleged crime, the fact that a young girl was raped, mutilated, and murdered, meant that the person who did the deed must be grotesque, insane, a maniac and sexual deviant. The mob did not limit these characteristics to Porter alone; rather, a familial relationship of deviance was thrown about—posited by at least a few more citizens in the crowd which gathered outside the jail in Denver: "'we ought to hang the whole lot,' exclaimed one man, who had the attention of a small crowd. 'It's in the blood. Arthur Porter [sic] has served a term for the same offense. The old man gave it to his children. We ought to hang the whole crowd.'"⁴⁷ For this member of the mob, the ties of blood between John Preston Porter, Jr., and his brother and father were enough to warrant the deaths of all three men despite there being no association between Arthur and Porter, Sr., with the crime itself.

Where some Coloradoans were content to leave the criminality confined to familial relationships, others extended criminality further. Instead of implicating just the Porter clan, they impugned the entire the African American race. The vigilance committee which met that night in

⁴⁶ Ibid.

⁴⁷ Ibid.

Limon published a screed against the newly-imported African American railroad workers in the following day's newspaper:

Whereas, We believe that the citizens of any community have the right to protect themselves from the settling in their midst of low and vicious characters; and

Whereas, We believe that the colored section men, in the main, who have been imported from large Kansas and other cities and employed on the railroad sections of these counties, are of a low and criminal class, and are a distinct menace to this community; therefore be it

Resolved, That the citizens of Lincoln and Elbert counties do most earnestly request that the officials of the Rock Island and Union Pacific do remove these counties of all imported colored section men.⁴⁸

While many other statements reflect the general fear that Coloradoans felt for their families after the murder of Louise Frost, none capture the association of that fear with black men as well as the one above. The fear of these men led the vigilantes to demand the removal of all African American section workers on the mere suspicion that they could be like the “inhuman boy” who murdered one of their own. The vigilantes targeted not just black men, but a particular type of black men: the manual laborers found on places like the section line. These were men like John Preston Porter, Jr., his father, and his brother, who had left their wives and families at home in Kansas in order to earn a wage from the railroad out west. With the removal of this “low and criminal class,” the vigilantes wished to return the population of African Americans in Lincoln County to its former insignificant proportion: 10 out of 926.⁴⁹

However, usually white Coloradoans did not limit their fear and abuse to criminal families nor to African American section workers. Instead, one can find criticism of the entire black race in the newspaper articles regarding lynching. The *Boulder Daily Camera* associated African Americans with depravity and violence: “Everyone knows it is in the Negro blood and can only be eliminated, if ever, by the moderating tendencies of climate and society for

⁴⁸ *The Denver Times*, Nov. 16, 1900.

⁴⁹ Leonard, *Lynching in Colorado*, 148.

centuries.”⁵⁰ The *Pueblo Sunday Opinion* went further, writing, “The white people of Colorado are fully determined to protect their women and children, and unless the negroes take a tumble in time there will be a wholesale cleaning out.”⁵¹ Here, the *Sunday Opinion* meant that white Coloradoans, fearing for their families, would almost certainly destroy the African American presence in their state through lynchings unless blacks somehow advanced to a stage of civilization which left behind their racial criminality. Using such an odd phrase as “took a tumble in time,” it appeared that the *Sunday Opinion* found this prospect extremely unlikely.

Rather than being about reflecting the struggle to establish a justice system on a lawless frontier, Porter’s and Kimblern’s deaths were reminders of the low-social status of African American men in Colorado. In this way, they represented a system of white supremacy—enforced and reinforced through extralegal violence—which one sees most often in the Jim Crow South. The next chapter furthers this argument first by looking at the death of Henry Smith, showing how his death is, at once, racially-motivated and also indicative of a culture of lynching which was diffused throughout the South.

⁵⁰ *Boulder Daily Camera*, Nov. 17, 1900.

⁵¹ *Pueblo Sunday Opinion*, quoted in *The Denver Times*, Nov. 19, 1900.

II. A CULTURE OF LYNCHING

The following chapter discusses the culture of lynching—a term I have adopted from historian William Carrigan.⁵² More than discreet events, lynchings were connected to, dependent upon, and representative of the social, economic, and cultural circumstances of the Jim Crow South. I have chosen Henry Smith to serve as the archetype for these lynchings because his death represented all of the criteria found within the culture of lynching. Both racially-motivated and reinforcing of a conservative status quo, lynchings provided both entertainment and leisure to a community. It was ritualistic, performative, and witnessed (a term I discuss at greater length further on), both a symbol and a spectacle. The chapter then shifts back to Colorado and looks at a narrative of John Preston Porter's death in 1900, showing that his death held these same attributes.

The Death of Henry Smith

In late January of 1893, four-year-old Myrtle Vance, the daughter of a long time Paris, Texas, police officer, was murdered. Officer Vance, who, according to Ida B. Wells, who wrote of the event two years later, was “known to be a man of bad temper, overbearing manner and given to harshly treating the prisoners under his care.”⁵³ Wells, the famous anti-lynching advocate, journalist, and eventual co-founder of the NAACP, interpreted Smith's death as the direct result of Vance's fixation on the poor, African American man. According to Wells, other

⁵² William D. Carrigan, *The Making of Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916* (Urbana: University of Illinois Press, 2004), 13.

⁵³ Ida B. Wells, *The Red Record*, quoted in Christopher Waldrep and Michael Bellesiles, *Documenting American Violence: A Sourcebook* (Oxford: Oxford University Press, 2006), 190-191.

eyewitnesses stated and swore a most solemn vow that the girl had not been sexually assaulted. Rather, her death, horrible and tragic enough, was not beyond the pale of the hundreds of murders which occurred every year in the United States.⁵⁴ This was not how Vance saw it. His exaggeration of the brutality of the crime and his fixation on Henry Smith led the community to reject the legal course of legal proceedings and state-executed punishment—which Wells stated would have almost certainly led to Smith on the gallows—in favor of an expiation by fire.

Although accused of murder and rape, Henry Smith did not go far from Paris, Texas. He was “a well known character, a kind of roustabout, who was generally considered a harmless, weak-minded fellow, not capable of doing any important work, but sufficiently able to do chores and odd jobs around the houses of the white people who cared to employ him.”⁵⁵ Rumors of Smith being the murderer flooded through Paris for days. Having been accused of “assaulting” and murdering a three-year-old white girl, Smith went to his home in nearby Heampstead County, Arkansas, where he was captured and put on a train back to Paris. A mob of five thousand waited for his arrival. “Hundreds of people poured into the city from the adjoining country, and the word passed from lip to lip that the punishment should fit the crime, and that death by fire was the penalty that Smith would pay for the most atrocious murder and outrage in Texas history.”⁵⁶ By the time that the train rolled in the crowd had grown to 10,000 in number. “The negro was placed upon a carnival float, in mockery of a king upon his throne, and followed by the immense crowd, was escorted through the city so that all might see.”⁵⁷ Paraded through town, Smith was taken to his pyre.

With Smith tied and helpless upon a tall platform, the crowd tortured him for almost an

⁵⁴ Waldrep and Bellesiles, *Documenting American Violence*, 191.

⁵⁵ Waldrep and Bellesiles, *Documenting American Violence*, 191.

⁵⁶ *New York Times*, Feb. 2, 1893.

⁵⁷ *New York Times*, Feb. 2, 1893.

hour with branding irons to his body and face: “Every groan from the fiend, every contortion of his body was cheered by the crowd. Before the burning, the hot irons, plenty of fresh ones being at hand, were rolled up and down Smith’s stomach, back, and arms. Then the eyes were burned out, and hot irons were thrust down his throat.”⁵⁸ Once he had died from these wounds, Smith’s corpse was doused in kerosene and burned. “Curiosity seekers... carried away... all that was left after the memorable event, even the charcoal pieces.”⁵⁹ Souvenirs, both photographs and memorabilia, played an important role in the ritualistic and entertainment aspects of lynching.

A crowd both horrified and cheerful, memento seekers, ritual torture and killing, the accusation of the rape and murder of a white girl by a black man: Henry Smith’s death shows that north Texas in 1893 had just as much a culture of lynching as any other Southern former-slaveholding states. To Wells, Smith’s death had a clear purpose; motivated by race, perpetrated by a white mob, and abetted by the silence and inaction of white police and white courts, the conflagration was a continuation of the long history of white violence against blacks. Henry Smith’s lynching was more than just the white community of north Texas keeping African Americans out of positions of social power; it was made possible by a culture of lynching which encompassed the entire Jim Crow South.

Constructing a Culture of Lynching

Perhaps the most uniform expression of American extralegal violence was the lynch mob, specifically the lynch mob of the Jim Crow South between 1865 and the first half of the twentieth century. As a form of social control, the racially-motivated, illegal killing of black men by white mobs seems ripe for reductive analysis, and, indeed that has often been the case. The

⁵⁸ *New York Times*, Feb. 2, 1893.

⁵⁹ *New York Times*, Feb. 2, 1893.

historical memory of lynching in America is so pervasive that “lynching” has become synonymous with “hanging” and, what is more, with “the hanging of a black male (criminal).” While this reduction was often true, it serves to obfuscate the many manifestations of vigilance in both the Jim Crow South and, by extension, America as a whole. This section challenges the simplistic memory of lynching by examining prior interpretations analyses of the lynch mobs in the Jim Crow South and seeing how Henry Smith’s death fits into them. The first mode of analysis covers the traditional “social control” explanation for black lynching. Social control as explanation is ubiquitous in the academic literature of lynching. After taking up the traditional analysis, I will discuss lynching as a ritual, as a leisure activity, as a public spectacle, and as a symbol with the intent to show that one need understand lynching as a cultural phenomenon. Without understanding such cultural grounding, it is easy to mischaracterize lynching as simply a method of social control, a way for a dominant majority to keep an oppressed minority from rising in the social ranks. This conservative impetus is certainly part of Jim Crow lynching, but misses the social and cultural roles these murders played for the communities which committed.

Traditional Narrative of Lynching: Social Control

Lynchings were not uncommon in the South. Though the numbers vary, Arthur Raper put a conservative estimate of the reported lynchings between 1889 and 1930 at 3,724.⁶⁰ Though they manifested in many variations, the lynch mobs of the Jim Crow South had much in common. First, they were extralegal, violent actions by a group against one or two men. Second, they were predominantly racial. The lynchers were white; the victims black. Raper found that

⁶⁰ Arthur Franklin Raper, *The Tragedy of Lynching* (Chapel Hill: University of North Carolina Press, 1933), 1. Sociologists Stewart Tolnay and E.M. Beck report identify 2,805 lynching victims in ten southern states alone between 1882 and 1930, the vast majority of whom were African American men. Stewart Tolnay and E.M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930* (Urbana and Chicago: University of Illinois Press, 1995), ix.

“over four-fifths of these [victims] were Negroes, less than one-sixth of whom were accused of rape. Practically all of the lynchers were native whites.”⁶¹ Smith’s death fits neatly into this motivation for lynching; he was accused of raping and murdering a white four-year-old.

Raper’s classic account summarized the traditional explanation of Southern lynching: “The lynching rates have been highest in the newer and more sparsely settled portions of the South, where cultural and economic institutions are least stable and officers of the law are farthest apart, poorest paid, and most dependent upon local sentiment.”⁶² Political, economic, and cultural instability then become the main explanation of lynching in the South. Whites perceived a hostile social world in which their superior status was constantly under siege. This partly explains why Raper found that “though there were a few notable exceptions, most of the lynchers, chiefly young men between their late teens and twenty-five, were from that unattached group of people which exercised least public responsibility and was farthest removed from the institutions and agencies determining accepted standards of conduct.”⁶³ In a climate of instability, the least stable portion of the dominant social group was the one which acted out most violently.

Smith’s death fits less neatly into this description. As many newspapers and Ida B. Wells noted, a “thickly packed crowd of 10,000 persons” participated and witnessed Henry Smith’s lynching.⁶⁴ They came from all over: “from Dallas, Fort Worth, Sherman, Denison, Bonham, Texarkana, Fort Smith, Ark., and a party of fifteen came from Hempstead county, Arkansas, where [Smith] was captured. Every train that came in was loaded to its utmost capacity, and there were demands at many points for special trains to bring the people here.”⁶⁵ Considering how disparate

⁶¹ Raper, *The Tragedy of Lynching*, 1.

⁶² Raper, 1.

⁶³ Raper, 1-2.

⁶⁴ *The New York Sun*, Feb. 2, 1893, reproduced in Christopher Waldrep and Michael Bellesiles, *Documenting American Violence: A Sourcebook* (Oxford: Oxford University Press, 2006), 194.

⁶⁵ *The New York Sun*, Feb. 2, 1893, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 194.

the social circumstances of Dallas and Fort Worth, two cities, were to Paris, Texas, a small agricultural community, economics alone seems like a poor explanation for the makeup of the mob.

The traditional narrative of lynching mirrors the reductive one outlined above. However, even early sociologists, like Raper, were well aware of the social variations that characterized both lynch mobs and lynching victims. Raper noted that women were often spectators and supporters of extralegal violence. So, too, were local courts, sheriffs, and sheriff's deputies. Furthermore, the political elites of the local community supported or at least tolerated the practice of lynching either through their inaction to stop it or by actively engaging in the mob.⁶⁶ But can economic instability adequately explain Southern lynching? The history of the world is full of real and imagined social and economic hardships and peoples responding to their hardship, but, in the South, it was the lynch mob—and, what is more, the threat of the lynch mob—that became a dominant enforcer of the status quo. As Ida B. Wells noted, the Texas courts would have almost certainly hanged Smith had he gone through the established legal system. However, the white community of north Texas, under the instigation of a local police officer, decided to torture and burn him to death. When one considers that Smith would have almost certainly been punished by death through the legal system, the brutal, extralegal nature of his death implies that north Texans sought more than to preserve the social order and punish a criminal. By looking at other analytical frameworks of lynching, we can uncover more of what Smith's death meant and why it was so brutal. In so doing, we can adopt Smith's death as a model through to examine the racially-motivated murders of 1900 Colorado.

Lynching as Ritual

⁶⁶ Raper, 12-14.

Lynchings in the South were sometimes quick and brutal, done under the dark of night by masked men, but other times their brutality was extended through time and space. Lynchings were (and are) performative in nature. Andrew S. Buckser, a cultural anthropologist, described this behavior as ritualistic. Buckser claimed that a lynching began from the moment a crime was discovered. From the point of discovery several things happened: the community gathered a posse, which in turn found and captured the alleged perpetrator; the victim was sometimes beaten and tortured, sometimes made to confess or give a statement; then came the death and the surging rush of the mob for souvenirs (clothes, fingers, toes, hair) and photo opportunities. To Buckser: “lynching was not simply a mechanism, a tool for accomplishing political or judicial ends; it was an event, a powerful and vividly experienced act replete with symbolic, emotional, and cultural significance.”⁶⁷ The scholarly fixation on the technology of lynching—the types of lynching and its political/judicial function—hides the ritualistic side of lynching. Arguing further for lynching as ritual, Buckser described the post-lynching “scramble for fingers, toes, bits of rope, or links of chain... [and for the] magical power ascribed to these objects.”⁶⁸ Buckser claimed that these souvenirs were often thought of as having some magical properties; for instance, they might serve as good luck charms.

Accounts of Henry Smith’s death suggest that his lynching fulfilled ritualistic functions. He was paraded through town on a float. The victim’s family members, acting as representatives for the extreme justice of the entire mob, “gathered about the Negro as he lay fastened to the torture platform and thrust hot irons into his quivering flesh.”⁶⁹ The torture took a kind of call and response form as “every groan from the fiend, every contortion of his body was cheered.”⁷⁰ The

⁶⁷ Andrew S. Buckser, "Lynching as Ritual in the American South," *Berkeley Journal of Sociology* 37 (1992): 21.

⁶⁸ Buckser, "Lynching as Ritual in the American South," 23.

⁶⁹ *The New York Sun*, Feb. 2, 1893, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 193.

⁷⁰ *The New York Sun*, Feb. 2, 1893, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 193.

family's importance to the extraction of vengeance seems paramount in Smith's death. According to the *New York Sun*, Myrtle Vance's mother and father were almost destroyed by their daughter's death. The mother "now lies at death's door, but she has lived to see the slayer of her innocent babe suffer the most horrible death that could be conceived."⁷¹ We do not know whether the family attained catharsis through torturing and murdering Smith, but, even if they did not, they went through the ritual all the same.

Seeing lynching as a ritual implies a significance beyond surface-level function. Buckser ultimately argued that in the case of Southern lynching this meaning had to do with a community wrestling between official and unofficial authorities: "a lynching which succeeded, then, was not only a victory of the community against the supposed criminal, but also a victory of the community against the government. Justice had been done not by the law but by the communal will; the unofficial realm had triumphed over the official. In a lynching the unofficial white community symbolically regained its authority over the social order."⁷² Unlike in Colorado with Jim Gordon in 1860 and with Calvin Kimblern and John Preston Porter, Jr., in 1900, Texas had a legal and "adequate" method of punishment for murderers like Smith: the gallows, but, according to Wells, "the white people of the community made it a point to exaggerate every detail of the awful affair, and to inflame the public mind so that nothing less than immediate and violent death would satisfy the populace."⁷³ Buckser would claim that this was part of the battle between unofficial and official control of the social order. Here, I believe that Buckser was mistaken. The ritual of Henry Smith's brutal death was made possible because of the complicity of the official realm, from Officer Vance's inflammatory rhetoric to the non-interest of the courts to punish the offenders even though they knew the names of several of the torturers. Buckser's framework is,

⁷¹ *The New York Sun*, Feb. 2, 1893, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 193.

⁷² Buckser, 25.

⁷³ Ida B. Wells, *The Red Record*, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 191.

nevertheless, a useful way of viewing lynching in the South.

Lynching as Leisure

Some of the ritualistic aspects to Smith's death can also be seen as a form of leisure or entertainment.⁷⁴ There is nothing mutually exclusive about violence and leisure activity; the same can be said of social control and leisure. Though his article is an attempt to expand modern notions of what constitutes leisure, Rasul Mowatt makes a powerful argument about the nature of lynching in the Jim Crow South. He holds that aspects common to a majority of black lynchings—photography, the collection of souvenirs, the carnival-like atmosphere—place lynching firmly in the category of leisure activity.⁷⁵ Mowatt carefully limits the claims of his paper to discuss leisure activity (versus discussing lynching itself) and, furthermore, to black lynching in the Jim Crow South: “the spectacle nature of the lynching of Black Americans is what potentially ties lynching to leisure. The lynchings of other groups of people did not attract the crowds that a Black ‘murderer’ could, but oftentimes the organization of these lynchings took the dimension of an event.”⁷⁶ Here, Mowatt argues that there was something different about the lynching of blacks, something perhaps along the lines of the ritualistic aspects that Buckser argues for. Henry Smith's “clothes were torn off piecemeal and scattered in the crowd, people catching the shreds and putting them away as mementos.”⁷⁷ Add to this the fact that he was placed upon a carnival float and paraded through the crowd as though on parade and it is hard to argue that entertainment was not a piece of his death. Leisure, like ritual, provides another

⁷⁴ In the article discussed below, Rasul Mowatt describes leisure as “the expression of human behavior as an experience, a recreational activity, or a freedom from obligations. Rasul A. Mowatt, “Lynching as Leisure: Broadening Notions of a Field,” *American Behavioral Scientist* 56, no. 10 (2012), 1361.

⁷⁵ Rasul A. Mowatt, “Lynching as Leisure: Broadening Notions of a Field,” *American Behavioral Scientist* 56, no. 10 (2012), 1369-1370.

⁷⁶ Mowatt, “Lynching as Leisure,” 169-170.

⁷⁷ *The New York Sun*, Feb. 2, 1893, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 193.

insight into the meaning of extralegal violence.

Lynching as Spectacle and Symbol

Mowatt makes another excellent point about the nature of lynching: it is spectacular. Whether done under the cover of darkness by hooded men or in broad daylight on a public square, lynchings were meant to be seen, heard, and communicated. They were meant for public consumption. 10,000 people witnessed Henry Smith's death in 1893; hundreds witnessed the deaths of Thomas Reynolds, Calvin Kimblern, and John Preston Porter, Jr., in 1900 in Colorado. The spectacular nature of lynching is something that many scholars have addressed, but I want to focus on the work of Amy Louise Wood in particular. She argues that lynching derived its power from the symbolic weight of the act. As Wood notes, "compared to other forms of terror and intimidation that African Americans were subject to under Jim Crow, lynching was an infrequent and extraordinary occurrence."⁷⁸ Despite this, lynching was one of the most potent manifestations of racial terrorism, a characteristic that the term still holds today. Wood argues that the public nature—lynching was conducted by and for large numbers of people—combined with the relative infrequency of these violent acts to give lynching its power. These spectacles served a certain purpose. As Woods argues, "mobs performed lynchings as spectacles for other whites. The rituals, the tortures, and their subsequent representations imparted powerful messages to whites about their own supposed racial dominance and superiority."⁷⁹ Here one sees that lynching as spectacle bleeds into the concept of lynching as ritual. Witnesses to lynchings, though they did not actively participate in the ritualized torture and murder, performed a role nonetheless, that of the spectator. This spectator role served to infuse the actions of the mob with an authority, or

⁷⁸ Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: The University of North Carolina Press, 2009), 1.

⁷⁹ Wood, *Lynching and Spectacle*, 2.

legitimacy, akin to the authority that the state possessed to punish criminals through the power of cooperative support and through the active witnessing of the event. As ten thousand throats cheered Smith's pain, the active torturers—including Myrtle Vance's father, brother, and uncle—found legitimacy in committing murder. It was this legitimacy which let them, in the words of Ida B. Wells, ignore the fact that “the murderer was known as an imbecile” and allowed them “to make an example out of him... with unspeakably greater ferocity than that which characterized the half crazy object of their revenge.”⁸⁰ The spectators, by viewing the horrible event and not condemning it, transformed an illegal, barbarous action into an acceptable act of purgation.

Wood labels this participatory type of spectatorship “witnessing”: “‘witnessing’ refers not only to public testimonials of faith or truth but also to the act of being a spectator of significant and extraordinary events. A spectator or bystander becomes a witness when his or her spectatorship bears a legal, spiritual, or social consequence, or when it can confers significance or value on an event. To act as a witness is thus to play a public role, one that bestows a particular kind of social authority on the individual, at the same time that it connects that individual to a larger community of fellow witnesses.”⁸¹ Lynching in the Jim Crow South was a witnessed act. This can be seen in the symbolic location of the lynch sites—often on the main square of a town or on the courthouse lawn—by the number of participants, sometimes in the hundreds or sometimes thousands, and in how lynchings took on a ritualized format that mimicked state executions.

Whites were not the sole audiences for lynchings, however. Another public group was meant to consume these brutal events: African Americans. Although at large gatherings such as Henry Smith's and John Preston Porter, Jr.'s, there were likely few or no African Americans

⁸⁰ Ida B. Wells, *The Red Record*, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 191.

⁸¹ Wood, *Lynching and Spectacle*, 4.

present, word quickly spread through newspapers, church and social groups, and other media.⁸²

Lynchings sent a message to blacks as well as to whites. According to Ida B. Wells, it was common knowledge that “in numerous instances where colored men have... been lynched on the charge of rape, it was positively known at the time of the lynching, and indisputably proven after the victim’s death, that the relationship sustained between the man and woman was voluntary and clandestine, and that in no court of law could even the charge of assault have been successfully maintained.”⁸³ African Americans would have interpreted these lynchings differently than whites. Even in the lynchings of men accused of crimes against children, such as Henry Smith and Calvin Kimblern, African Americans had to see these acts of mob violence through the history of white violence against blacks (both during slavery and after emancipation) and through the taint of exaggeration on the part of whites of the crime and evidence.

In the Jim Crow South, the spectacular lynching reached its zenith in deaths like Smith’s where crowds of hundreds and sometimes thousands of spectators gathered to witness these events. These spectators or witnesses were not passive; they “cheered, hooted, clapped, grabbed souvenirs, and, at times, participated.”⁸⁴ Wood argues that lynchings mimicked state-sanctioned public executions. The public execution was a form of popular entertainment; they were “mass spectacles of morbid amusement that drew thousands of spectators, who traveled long distances, collected souvenirs, and took photographs. That is, they were legal versions of the spectacle lynchings that took place in this same period.”⁸⁵ However, there was a crucial distinction: illegal lynchings were as a rule much more sadistic and allowed crowd participation, mutilation, torture,

⁸² In primary and secondary source materials, I have not encountered a single mention of African Americans attending a lynching other than the victims. Although there could well be exceptions, I think that this absence of evidence points to their not having been present at the majority of lynchings.

⁸³ Ida B. Wells, *The Red Record*, reproduced in Waldrep and Bellesiles, *Documenting American Violence*, 190.

⁸⁴ Wood, *Lynching and Spectacle*, 11.

⁸⁵ Wood, *Lynching and Spectacle*, 29.

and souvenir taking.⁸⁶

Taken together, all of these analyses point to a culture of lynching, the idea that extralegal punishment was motivated not by a single idea—retributive justice—but rather that it was built upon and expressive of a matrix of social and cultural relationships. William D. Carrigan argues for a culture of lynching in central Texas. The many manifestations of lynching, he writes, depend on four main attributes: 1) a collective memory and experience of the frontier, 2) the history of racial slavery, 3) the “resistance by racial, ethnic, and political minorities, and 4) the local court’s approval (or disapproval of mob violence).⁸⁷ All of these factors combined in specific locations to produce regional lynch-cultures. This helps to explain why “vigilantism and lynching varied tremendously from place to place and time to time, even in regions dominated by the same ethnic and cultural groups. Mob violence in the South was too episodic to be explained by such timeless cultural characteristics. Local memory, constantly shaped and reshaped by specific events and the actions of particular individuals, better explains the chaotic history of extralegal violence in the United States.”⁸⁸ Although Carrigan’s argument is for central Texas, I believe that Colorado had an omnipresent lynching culture, one which does not contain all the specifics of central Texas’s (for instance, a history of slavery), but one which encompassed the social and economic circumstances of Colorado’s own history. Rather than being encompassed by a single theory (e.g. lynching as ritual), American vigilance must be seen as both the creator and receptor of cultural attributes. These attributes were not, and are not, stagnant, but rather were in constant fluctuation; their concrete manifestations and social implications were contingent upon both local and regional lynch-culture. Nor was there a single, coherent culture of lynching; rather, lynchings

⁸⁶ Michael L. Radelet. "Capital Punishment in Colorado: 1859-1972," Office of the Colorado State Public Defender, accessed 3/11/2014. <http://pdweb.coloradodefenders.us>.

⁸⁷ William D. Carrigan, *The Making of Lynching Culture*, 13.

⁸⁸ *Ibid.*, 12.

were dependent upon their time and location. The lynchings of 1900 Colorado all transpired in the southeast region of the state, where social and economic circumstances were more uniform, lending them a stronger system of connections

The specific manner of Henry Smith's death depended upon north Texas's culture of lynching. In the next chapter, I will extend a slightly attenuated culture of lynching west to Colorado. Colorado's lynch-culture had its particularities, rooted in the social, economic, and cultural specifics of the day and region, but it existed nevertheless. Before beginning chapter three, however, the next section tells the full account of John Preston Porter, Jr's, death in November of 1900. Porter's death reveals the specifics of Colorado's culture of lynching by exposing the racial-motivation and political underpinnings of his extralegal death.

The Death of John Preston Porter, Jr.

Before arguing for the westward extension of a culture of lynching in the next chapter, this section looks at the lynching of John Preston Porter, Jr., in Limon, Colorado, in 1900. In Porter's death, one can see many similarities with Henry Smith's lynching: his arrest and lynching were racially-motivated; the form of his murder was ritualistic, spectacular, symbolic, and perpetrated by a large group and witnessed by a larger one. As with Henry Smith's lynching, Porter's began with sexual assault and murder of a white girl.

After work on November 8th, Porter, age sixteen, went shopping for clothes. Left with only a paycheck from his now-finished job at the railroad, he wanted to buy a new set of clothes at the Russell Gates Mercantile before returning to his home in Lawrence, Kansas. Meanwhile, Louise Frost, a girl of thirteen, left school in her horse and carriage to return home to her family's ranch. She never made it. Three miles outside of town, she stopped her horse for an

unknown reason. From here, she was taken thirty yards from the road where she was brutally raped and murdered.⁸⁹

Her murder shocked the town of Limon and nearby Hugo, particularly because of the sheer brutality of the crime. As the *Denver Times* reported the following day, Frost was stabbed multiple times in the chest, neck, and legs. There were signs that she had been kicked on her forehead and cheek. Furthermore, the crime's sexual nature made it all the more outrageous and sensational. Many of her wounds seemed to derive not from a sign of struggle, but, rather, from "an insane act of the murderer, who in his determination to complete his awful crime with murder tried to hack his helpless victim to pieces lest she might live to tell of the deed and give a description of her assailant."⁹⁰ Indeed, the crime was of such a horrible nature that the *Times* was certain that, upon his arrest and viewing of the body, the murderer would spontaneously confess out of guilt.⁹¹ Found unconscious later that afternoon, she died around midnight without waking.

The Lincoln County police were torn between two possible scenarios. Though powerful at first, the first scenario—that the murderer was a close acquaintance of the Frost family—lost traction over the following week and was ultimately replaced by the second. This second scenario was rooted in race and class prejudice—the murderer was surely an African American, a tramp, or both. Shortly after her death, it became apparent that no one knew who her murderer was nor in which direction to look. Divided in their investigation, the sheriff and his deputies canvassed the region, interviewing transients, people of color, and those known to the family alike.

⁸⁹ *The Denver Times*, Nov. 9, 1900.

⁹⁰ *Ibid.*

⁹¹ Crime and Criminals-Lynching-John Preston Porter, Jr., clipping files, *Denver Public Library Western History and Genealogy*: The following day, Dr. Rothwell, a local physician described the extent of the girl's injuries: "Fracture of the skull, back of her right ear, frontal bone caved in, as if crushed by a kick, both eyes blackened, as if by a fist, her neck hacked with a knife, five knife stabs in her breast, knife slashes on her limbs where the brute had cut her clothing. The ground in the vicinity of the assault bears unmistakable signs of a fearful struggle."

While Deputy Sheriff Bristeine went to Denver on Friday, November 9th to tell the city authorities to be on the lookout for people heading to Denver from Limon and its environs by train, Lincoln County Sheriff Freeman requested the use of bloodhounds from the penitentiary at Cañon City to track the murderer. The bloodhounds, though steeped in the bloody scene of the crime, found no trail to follow. The authorities decided that this meant the murderer had already escaped to Denver.⁹²

On Sunday, November 11, Louise Frost was interred in Fairmount Cemetery in Denver. She was buried in the same grave as her sister, Fay, who died at age three, and her childhood friend, Mary Bass, who died seven years earlier. That day, the Denver police arrested three black men: John Preston Porter and his two sons, Arthur and John Preston, Jr. The Denver police originally suspected the father; his son, John Preston Porter, Jr., was just one of several men arrested on suspicion of murder indicated by their being either black or a tramp. The records do not indicate exactly why the police became increasingly suspicious of the sixteen-year-old. Slight of build and weighing only 105 pounds—twenty-five pounds less than Louise Frost reportedly weighed—Porter, Jr., was not the obvious choice for such a brutal crime.⁹³ Through interviews with newspaper editors and police interrogations, one can see the telltale signs that he was incapacitated by fear or by some mental disability. “[Porter] absolutely fails to recognize the meaning of a question in anything but the simplest language,” wrote the *Denver Times*, and, “He is either obtuse in his understanding or most clever at shamming.”⁹⁴ With no clue as to who killed his daughter or why, E.W. Frost took ill. The *Times* and other papers reported that he was on the verge of death, overcome by grief, and lacking the will to go on. He stayed at the home of his

⁹² *The Denver Times*, Nov. 10, 1900.

⁹³ Crime and Criminals-Lynching-John Preston Porter, Jr., clipping files, Denver Public Library Western History and Genealogy.

⁹⁴ *The Denver Times*, Nov. 13, 1900.

friend and physician, Dr. John T. Bass, the father of Mary Bass, the girl whose grave Louise Frost now shared.⁹⁵

The following day, the people of Colorado were torn between two suspects—Porter, Jr., and William Thompson, a white tramp—both arrested for being undesirable persons who had been near Limon when Louise Frost was murdered. Thompson was captured in Elizabeth and brought to the city jail in Denver, whereupon he was interrogated and examined by a phrenologist, Dr. J.R. McHugh, who pronounced him a potential maniac, “an idiot,” “marked by an utter absence of reason,” “a desperate man,” and “capable of just such a crime.”⁹⁶ Along with this profile of a heinous murderer was the circumstantial evidence: blood on Thompson’s clothing and the ownership of shoes which were a near match for the footprints found at the murder site.

While Thompson underwent questioning, Porter was tortured:

This morning, as determined last night, John Porter is being subjected to the sweatbox⁹⁷ by the police officials in an effort to make him break down and tell his story. No Indian ever maintained greater stoicism. Cross-questioned by police, detectives, physicians who confronted him with the cumulative evidence of guilt, reporters and even the father of the murdered girl, he has maintained the same stoical indifference to the enormity of the crime which he is accused and to which circumstances point so strongly.⁹⁸

Porter underwent a series of torture and interrogation. His story remained unchanged for several days while the police built a case around him. A trail that was originally cold became hot when C.F. Clifford, Lincoln County assessor, local rancher, and newly-made deputy, found a bloody handkerchief in the train car in which Porter and his family had recently been living. Clifford

⁹⁵ *The Denver Times*, Nov. 12, 1900.

⁹⁶ *The Denver Times*, Nov. 13, 1900.

⁹⁷ The sweatbox was an interrogative torture device developed during the Civil War. According to the political scientist and government-torture expert Darius Rejali, “the sweatbox was a cell near a very hot stove that produced intense heat. Guards fed the stove rubber shoes, making offensive smells until detainees confessed. By the early twentieth century, sweatboxes were dark, solitary cells like the Denver ‘Black Hole.’ The cells were very cold, hot, or wet.” from Darius Rejali, *Torture and Democracy* (Princeton: Princeton University Press, 2009), 72.

⁹⁸ *The Denver Times*, Nov. 13, 1900.

quickly matched the pattern of the handkerchief to one sold at the Russell Gates mercantile, where the boy was known to have shopped on the afternoon of the murder.

The accusations continued to pile upon Porter as the police, the newspapers, and the citizens of Denver and Limon seemingly forgot about all of the other suspects. A trunk full of Porter's possessions arrived on a train from Lawrence, Kansas: "There, as indubitable evidence of something strengthening the theory of Sheriff Freeman, a pair of jeans was found, bearing unmistakable blood marks."⁹⁹ Among his personal affects was a sack of marbles, matching a few marbles now reportedly found in the fire at his train-car home. According to the *Times*, nobody else in the neighborhood had marbles quite like these.¹⁰⁰

It is entirely possible that John Preston Porter, Jr., was indeed guilty of raping and murdering Louise Frost. However, many of the circumstances surrounding his arrest and eventual confession cast doubt upon Porter's guilt. Why were his possessions in Kansas seen as evidence of his guilt? Presumably, Porter did not have enough money or time to travel back and forth from Kansas. What does a pair of stained jeans in Kansas have to do with a murder in Colorado? Cuts and bloodstains would have been a common part of clothing for the workers of railroad section crews, a group of men who were "of a low and criminal class, and [were] a distinct menace to [the] community," as the Limon vigilance committee later described them.¹⁰¹

Furthermore, the jeans were tested by a chemist, "Dr. T. J. Bass," who categorically found the stains to have come from human blood. Having looked in the Colorado State Business Directories, there is only one Dr. Bass mentioned: J. T. Bass, the president of the Bass Infirmary of Osteopathy.¹⁰² Was this Dr. Bass E.W. Frost's friend and the father of the girl that Louise Frost

⁹⁹ *The Denver Times*, Nov. 14, 1900.

¹⁰⁰ *Ibid.*

¹⁰¹ *The Denver Times*, Nov. 16, 1900.

¹⁰² *Denver City Directory*, vol. 29, 1901 (Denver: Ballenger & Richards, 1901), 181. There are no Dr. Bass's listed

now shared a grave with, the doctor who further found evidence of Porter's guilt?

The entire time that they had searched for the killer, the police and the newspapers were certain that the murderer would confess, the shame of his crime being too great to overcome. And, indeed, the next day, Thursday, November 15, John Preston Porter, Jr., gave a written and oral confession after being confronted by the new evidence against him. That the confession came through interrogation and torture, there can be no doubt. The papers proudly proclaimed the techniques used by city police. On the day of his confession, Porter, Jr., had been subjected to the sweatbox at least twice and threatened with the lynching of his family: "Police Surgeon Miller, who has done splendid work on this case, suggested to Porter that if guilty he should say so and prevent the lynching of his father and brother."¹⁰³ The threat to his father and brother were most certainly on Porter's mind when he confessed. As he told Police Surgeon Miller the morning of his confession: "I confessed and told the truth about the whole thing so they would not lynch my father and brother John, who had done nothing whatever to do with it. I don't want them to hang or be burned at the stake, for they had nothing to do with it at all."¹⁰⁴ In this statement, Porter likely revealed that he had already glimpsed Colorado's culture of lynching, having predicted the manner of his death. He then asked Surgeon Miller if he would go to the penitentiary; the Police Surgeon replied, "No, they won't send you to the pen, they will lynch you."¹⁰⁵

Despite a mob beginning to gather around the city jail, the police decided to move him to the Arapahoe County jail. Surprisingly, the authorities were able to keep him from being lynched in that moment, but the crowd did not disperse. Instead, it formed around Porter's new place of detention. The crowd demanded not only Porter's death, but the death of his father and brother as

for Denver, Hugo, or Limon in *Colorado State Business Directory*, vol. 21-31, 1895-1905 (Denver: The Gazeteer Publishing Co., 1895-1905).

¹⁰³ *The Denver Times*, Nov. 15, 1900.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

well, seeing them as of a kind. An unnamed deputy began to describe in detail how the police had found the bloody handkerchief in Porter's train car, riling the mob up, "until finally there was a well-defined movement toward the jail entrance."¹⁰⁶ Porter and his family were spared lynching at this time because of the actions of Captain Phillips, who, upon learning of this impromptu speech, sent officers to subdue the mob.

In Limon that night, a vigilance committee met to discuss the death of the confessed murderer. Porter would be hanged to death; the citizens of Limon would permit no mutilation of his person while living or dead. They could not render a decision on what to do with his corpse, however, unable to agree upon whether to leave it as a symbol or to bury it in an unmarked grave. The committee selected a captain and lieutenants to search all of the trains coming from Denver through Limon to search for Porter. The vigilance committee's deputies were not allowed to carry weapons lest some accident occur and they wound a police officer.¹⁰⁷

While his father and brother were spared, Porter's death was merely delayed by 90 miles and a single day. E.W. Frost intended to ride the train back with Porter, saying "I am going to sit where I can keep my eye on that man, and he is not going to escape."¹⁰⁸ Frost wanted to ensure Porter met justice, but not at the hands of the legal system: "My friends and their friends in Limon and Hugo are preparing to receive him[.] I do not know what form his death will be, but he will most surely die."¹⁰⁹ However, for reasons unprinted, Porter did not end up returning to Limon by train. Rather it was Sheriff Freeman, Deputy Sheriff Biestline, and C.F. Clifford who drove Porter to Magnolia, 15 miles from Denver, and boarded the train with Porter at Union Station. It left at 1:10 pm on Friday, November 16. Porter had five hours and thirteen minutes left to live.

¹⁰⁶ Ibid.

¹⁰⁷ *The Denver Times*, Nov. 16, 1900.

¹⁰⁸ *The Denver Times*, Nov. 15, 1900.

¹⁰⁹ Ibid.

All along the way, Porter was quiet, reading his bible. On his walk to the train at Magnolia, he reportedly posed for a few photographs and signed pages of his Bible, tearing them out and distributing them as souvenirs revealing the ritualistic elements of leisure that Mowatt argued for. The train successfully went through Limon only to be stopped three miles beyond at Lake Station. Men surged aboard, half a dozen tackling and subduing Sheriff Freeman. They took away his gun. Porter cried, "For God's sake, don't take me," but was otherwise silent.¹¹⁰ He was taken to the place, thirty yards from the road, where Louise Frost was found. What had been a small crowd at first, surged to over 200 men, women, and children.¹¹¹

The crowd was made up of people from all around the area, from Denver, Hugo, and Limon. Ranchers and town dwellers came on horses, by foot, in wagons and handcars. And then they waited: "During the two hours of waiting those who were not engaged in the preparations gathered in small groups, chatting in subdued tones or cracking jokes."¹¹² E.W. Frost arrived, having come by other means; it was at this moment that the orderly hanging changed to a conflagration. The grieving father demanded harsh vengeance and the people obeyed. In place of a gallows, they constructed a pyre out of the very railroad line upon which Porter worked and which had brought an undesired influx of African American men into the county: "A piece of steel rail was sunk in the ground. At its base a foundation was built of two by four timbers, laid crosswise, one layer above another. Earth was thrown upon this foundation near the steel stake, upon which the victim stood."¹¹³ Perhaps a discussion went through the crowd regarding the barbarity of cremation; Frost seemingly got cold feet for a moment and decided to let the crowd vote on the manner of Porter's death. By this time, the majority voted to continue building the

¹¹⁰ *The Denver Times*, Nov. 16, 1900.

¹¹¹ The *Times* noted that many women were present, some with children or babies. Some of the women and girls laughed merrily as the mob prepared for the lynching. *The Denver Times*, Nov. 16, 1900.

¹¹² *Ibid.*

¹¹³ *Ibid.*

pyre.

Men chained the boy by foot and chest to the steel rail, whereupon they piled split wood up to his knees, dousing the wood and the boy with kerosene. At 6:23 pm, E.W. Frost lit a match and said, “Gentlemen, I can touch this match without a shake of my hand.”¹¹⁴ The crowd cheered and began throwing matches of their own. Porter was silent at first and then began to cry out to God. The crowd mocked him, laughing at his pain and torment, and then fell silent. Porter attempted to wrest himself free. Feeling the heat of fire, but as yet untouched by the flames, he attempted to crawl downward to bring about his death more quickly. Thanks to the precision of the newspaper men, we know that John Preston Porter, Jr., died twelve minutes and thirteen seconds after the conflagration began. The crowd continued to throw split wood and railroad ties onto the fire for another three hours. The fire had grown so hot and burned so long that nothing remained but ashes and bones. “It was a frightful vengeance,” said the *Times*. “A majority of those present felt that it was just.”¹¹⁵ After the flames died, the mob—now returned to their everyday lives—decided to memorialize the burning, “making it a mark which all evildoers may view with alarm.”¹¹⁶ Within sight of the railroad which ran through Limon, the memorial would be seen by travelers and railroad section workers as they came through.

Porter’s death—on its own, but especially when viewed in light of the lynching of Thomas Reynolds and Calvin Kimblern—participated in a culture of lynching in 1900 Colorado. In this way, I argue against analyses of lynching such as Amy Louise Wood’s *Lynching and Spectacle* (2009). Although her work is otherwise excellent, it contains one crucial misrepresentation of popular justice in America; she writes of the Jim Crow South, “despite lynchers’ seeming

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

dismissal of the law, theirs was not the attitude of a frontier, lawless society; these were men who otherwise respected the law.”¹¹⁷ This sentence hangs in her work as a kind of generalization of the US West and its relationship to law and order. It serves as a prime example of an overly-simplistic understanding of frontier life. Though the frontier was seen as a lawless land where men sometimes had to resort to “rough justice,” these same men would have characterized themselves as law-abiding and law-respecting.¹¹⁸

Although it is a useful analytical process and one which I have employed so far, it is time to complicate the simple binary of Southern versus frontier lynching. This separation of Southern lynching and Western vigilante justice does a disservice to Western expressions of vigilance. As photographer of Western lynch sites Ken Gonzales-Day writes, “contrary to the popular image of the American West as a lawless frontier—encountered everywhere from the dime novels from the 1860s to Hollywood Westerns still in production over a century later—in California, those areas with the most law enforcement had the greatest number of summary executions, vigilance committees, and lynch mobs.”¹¹⁹ Furthermore, race and ethnicity are devalued in Western vigilance; the overt racial impetus for Jim Crow-era lynching somehow seems to diminish the racial tensions along the frontier. It is true that there were many whites, cattle rustlers mostly, who were lynched in the US West, but this does not negate the racially-motivated lynchings that occurred at the same time and in the same places. But, most of all, a detailed examination of individual lynchings reveals that Colorado had its own culture of lynching at the turn of the century, one which contained different elements from the Jim Crow South culture, but nevertheless allowed white communities to move outside the bounds of law in order to punish

¹¹⁷ Amy Louise Wood, *Lynching and Spectacle*, 43.

¹¹⁸ I will discuss this simplification of frontier lawlessness by extending Carrigan’s concept of the culture of lynching to the 1900 Colorado lynchings in Part Three.

¹¹⁹ Ken Gonzales-Day, *Lynching in the West*, 6.

perceived offenders.

III. LYNCHINGS, CAPITAL PUNISHMENT, AND THE DEBATE OVER REFORM

As the previous chapter discussed, Western lynchings could be as racially-motivated as even the most barbaric of Southern lynchings. One of the reasons why race has dropped away as an explanation for Western lynching has to do with numbers. According to Stephen J. Leonard, in 1900 Colorado, “African Americans made up less than 2 percent of the state’s population,” and “Lincoln county, the site of John Preston Porter’s death—a 2,500-square-mile expanse—counted fewer than 10 resident African Americans among its 926 citizens.”¹²⁰ With so few black men and women in the county and the state, there were fewer lynchings in Colorado than throughout the South.¹²¹

However, race was only one part of the discussion surrounding Colorado’s 1900 lynchings. An equally important discussion involved the recent abolition of capital punishment. Critics of the abolition found that the lynchings were the natural outgrowth of this naive legislation while supporters of the abolition tried to argue against reinstatement. In 1901, after a year of three brutal deaths, state legislators readily passed a new bill reinstating the death penalty. Democratic Governor James B. Orman abstained from signing or repealing the bill for the thirty day period in which he might approve or deny it. It automatically passed into law without his signature on July 31, 1901.¹²² The death penalty was once again an official part of Colorado criminal justice.

¹²⁰ Stephen J. Leonard, *Lynching in Colorado*, 148.

¹²¹ African Americans were not the only race targeted by white Westerners. Mexican Americans, Hispanos, and *Mexicanos* too faced extralegal murder for perceived social offenses. Since the 1900 Colorado lynchings targeted African American men, however, this thesis focuses on the social tensions between African Americans and whites.

¹²² *Rocky Mountain News*, May 1, 1901.

When looking at Colorado's lynching in terms of the debate over the death penalty, it becomes clear that lynchings were not solely about race and racism, nor just about maintaining a social structure in which whites controlled a majority of economic, political, and social influence. Colorado's lynchings participated in an argument between two opposing views of criminality and reform.

In 1900, conservative whites—embodied politically by the Republican party—felt threatened by a progressive vision of criminal justice reform—espoused primarily by their Democratic opponents. This chapter looks toward politics in order to help explain the lynchings of 1900 and the reinstatement of the death penalty in 1901 by discussing Governor Charles Thomas's correspondence with supporters and critics after Porter's death. The chapter then turns to the January, 1900 lynching of Thomas Reynolds, a white escapee from Colorado's state penitentiary. By comparing the controversy surrounding Reynolds's death to those around Kimblern's and Porter's, one can see how this political battle played out. Finally, this chapter returns to Colorado's culture of lynching at the turn of the century, placing the three illegal deaths in the context of the debate over capital punishment. The final section argues that this debate represented the conflicting worldviews of sentimental reformers—whose history stretched back to the antebellum anti-gallows and anti-slavery movements—and a body of conservatives—who saw attempts to reform criminals as misguided and dangerous, calling instead for harsher punishment including the death penalty. In the political arguments between criminal punishment reformers and death penalty advocates one can see all of the culture of lynching elements discussed in the previous chapters: entertainment and leisure, ritual and symbol, and social control.

From Public Vehemence to Official Indifference

The culture of lynching in Colorado was not merely expressed in moments of violence perpetrated and witnessed by an entire community. It also extended into the political realm. The deaths of Calvin Kimblern and John Preston Porter, Jr. were made possible not only by the hands of the mob, but by the indifference of politicians and public officials on the state and local level. One can see this indifference in the correspondence of Governor Charles S. Thomas to his many critics and supporters. Throughout the aftermath of Porter's lynching, Thomas heaped blame upon Sheriff Freeman and the citizens of Lincoln County. He called his northerneastern critics hypocrites. He tried to score political points with his followers. He did many things except take responsibility of any kind or attempt to prevent future lynchings. In this official indifference, one can see the tacit acceptance of this system of illegal violence against African-Americans. However, Thomas's inaction can be best understood not merely within the context of these lynchings, but also when placed into the statewide debate over capital punishment. Having abolished the death penalty a few years prior, Thomas attempted to strike a balance between conservative critics, who thought that the state needed the death penalty in order to properly punish and communicate punishment to criminals and would-be offenders, and sentimentalist reformers, who thought capital punishment was a barbaric anachronism.

When asked his opinion after Porter's lynching, Governor Thomas replied, "My opinion is that there is one less negro in the world."¹²³ This quick dismissal of an act of public brutality was not uncommon in Colorado in the immediate aftermath of Porter's murder. The "Limon affair," as Thomas referred to it, only became a source of statewide shame when placed under national scrutiny. People wrote the governor from all over; the State Archives holds Thomas's responses to letters from Ohio, New York, Louisiana, Nebraska, and Florida, as well as his responses to many

¹²³ *Boulder Daily Camera*, Nov. 17, 1900.

letters from Denver and Colorado Springs.¹²⁴ The indifference he displayed directly after the lynching vanished amid a flurry of political maneuvering. Thomas was not willing to take the blame for this incident; in fact, he felt that his office and his officers had acted according to the letter of the law. Instead, he and his Democratic allies were thwarted by a Republican Sheriff in a Republican county. Having been attacked by many anti-Democrats in letters and in the newspapers, the governor decided to go on the offensive.

On November 20th, three days after the apathetic dismissal quoted above, Governor Thomas sent a letter to Henry McAllister, the District Attorney of Colorado Springs, whose office held jurisdiction over Lincoln County. Thomas's main intention was undoubtedly to protect himself from political fallout. In this letter, Thomas seemed to have shifted completely away from apathy. He displayed a concern for the safety of men in custody, like Porter, and for the morality of an entire county. "As Governor of the State I deem it my duty to officially call your attention to the terrible affair, and to assure you my co-operation upon any line of procedure which you as the legal officer of your Judicial District may determine to pursue."¹²⁵ However, despite such talk of an official investigation, Thomas undermined his seriousness in the letter itself and through his later inaction. He wrote later in the letter, "I am aware that the provocation for the affairs was enormous, that an entire County participated in committing it, and that the enforcement of the law is correspondingly difficult. Nevertheless, the requirements of your office are obvious."¹²⁶ Here, Thomas suggested that he did not actually expect McAllister's office to produce any results. Hundreds of people participated in and witnessed the lynching, meaning that a

¹²⁴ He responded to both critics and supporters of his recent actions. It was likely that he knew he corresponded with one African American woman due to her church affiliation, but, for the most part, his letters remain neutral regarding the race of his recipients.

¹²⁵ Letter, Charles Thomas to Henry McAllister, Nov. 20, 1900, Outgoing Correspondence vol. 29, coll. 8922, Colorado State Archives.

¹²⁶ Ibid.

significant portion of Lincoln County's population was complicit in the murder. The seemingly insurmountable task meant that Thomas's letter was a piece of political theater, a way for him to address the concerns of his critics while doing essentially nothing.

The requirements of McAllister's office were obvious in this day and time: he had no real incentive to indict hundreds of whites for the murder of an African American criminal. Throughout the entire country, black men were being lynched on a routine basis; meanwhile, the local authorities either looked the other way or participated in the event itself. With the tacit support of the legal authorities through their inaction, the entire county could participate in the lynching while the individuals who comprised it could deny personal participation. Hiding behind the mask of the mob, the citizens of Limon County were secure in carrying out lynchings due to the knowledge that the police force would not investigate or punish them. The governor, in essence, wrote this letter to McAllister in order to say he, Thomas, had done everything he could do.

When responding to vehement critics, one can discern a pattern in Thomas's letters. He first denied any responsibility that he himself or his appointed officials had in the lynching, writing that his authorities and orders had kept Porter safe "in spite of the demands of the Sheriff of Lincoln County."¹²⁷ His letter then moved from defense of the authorities under his control to the blame of others; in these attacks, Thomas made the lynching into a political tool against his Republican opponents; Porter was safe in the hands of Thomas's representatives, and it was only when they surrendered him to "the Republican Sheriff of the Republican County of Lincoln under warrant from the county magistrate, that [Porter] was imperilled [sic]."¹²⁸ Not content with this generalization, the governor went into specifics, "It may comfort you to know that Lincoln County is the banner Republican county of the State, and cast its vote at the rate of two to one for

¹²⁷ Letter, Charles Thomas to Samuel E. Huffman, Esq., Nov. 22, 1900, vol. 29, coll. 8922, Colorado State Archives.

¹²⁸ Letter, Charles Thomas to E. J. Johnson, Nov. 21, 1900, vol. 29, coll. 8922, Colorado State Archives.

McKinley and Roosevelt. Every man belonging to the party, so far as I can learn, including the Sheriff, was present, participated in and seem to be satisfied with the affair.”¹²⁹ In this letter, as in others, Thomas used partisan language to attack the lynchers, Lincoln County officials, and critics of Thomas’s administration. He described the Republicans of Lincoln County for both their complicity in the lynching, and their lack of contrition for the role they had played.

The next step in his pattern was to attack the home of his critic and, sometimes, the critic himself. To Mr. Johnson, Thomas wrote, “indeed, I have a faint recollection of a similar proceeding in Ohio a very few months ago, when public buildings and records were destroyed, the militia summoned and a number of innocent lives lost. I believe you have a law and order party in power in Ohio.”¹³⁰ The sarcasm in the last sentence indicated exactly how hypocritical Thomas thought his Ohioan critic to be. To a critic from Nebraska, Thomas scolded both his critic and other states from which he had received criticism at the hands of hypocrites, writing, “I imagine that if Omaha is ever fortunate enough to lose you, that you will remove to Akron, Ohio, New York City, Chicago or some other point east of the Mississippi River where crimes like that of Porter have resulted in riots produced by the desire of frenzied whites to destroy the entire colored population.”¹³¹ These are not the sole instances of Thomas pointing out the hypocrisy of northern and eastern states. To a critic in New York, albeit one whose criticism of Thomas was light enough to not warrant complete abuse in his response, he wrote at length of northern hypocrisy:

While I can understand and sympathize with your feeling, you will pardon me as a native-born American citizen and voter of many years to say that I am ashamed of my citizenship, almost of manhood, at such an occurrence in our country and on the edge of the twentieth century, as took place in the City of New York last spring when an infuriated mob frenzied over the murder of a policeman

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Letter, Charles Thomas to D. Anderson, November 26, 1900, vol. 29, coll. 8922, Colorado State Archives.

by a negro attacked every member of that unfortunate race that came within their reach and brutally murdered him. The fair fame of New York has been deeply sullied and must remain indelibly stained by this outrage against law, order, decency and morality unless its guilty perpetrators are brought to justice. May we not hope, sir, that you will use your great influence to effect this and speedily and so purge our common country and American manhood from the cruel aspersions put upon it by that infuriated mob.¹³²

Thomas argued that Mr. Sabine should look to his own state before condemning Colorado.

Evidence of Thomas's blame shifting can even be found in responses to letters which he or, in this case, his secretary appreciated.¹³³

Governor Thomas did not limit his responses to critics. He replied twice to a supporter from Denver, Mrs. G.A. Tarbet, president of the Ladies Missionary Society at the Zion Baptist Church (a predominantly African American church) in Denver, Colorado.¹³⁴ She wrote to Thomas twice for his support and influence with the citizens and officials of Lincoln County. Horrified by the lynching itself, Tarbet was even more distraught over the memorial the lynchers had left in the ground: the steel rail upon which the town cremated Porter. She wrote the Governor seeking his aid in removing the memorial. In these letters, although Thomas was willing to help, his aid was extremely limited both by the powers of his office and his own apathy: "Indeed, the powers of a Governor after all are very limited... I venture to suggest that a copy of your resolutions be forwarded to the County Commissioners of Lincoln County by whom they may receive some consideration, and if you desire [sic] me to do so, I will give you a letter to

¹³² Letter, Charles Thomas to William T. Sabine, Esq., Nov. 27, 1900, vol. 29, coll. 8922, Colorado State Archives.

¹³³ Letter, Jas. M. Jaehson to Robert R. Taylor, Esq., Nov. 28, 1900, vol. 29, coll. 8922, Colorado State Archives: "The affair is a most unfortunate one, and if this were the only section of the country where such things have occurred, it would be deplorable beyond measure. Compared, however, with New York, Ohio, and other sections of the north, we can stand the reproach which is at present our lot."

¹³⁴ Founded in 1865, Zion Baptist Church still actively serves Denver's African American community. The church's current location was built during the 1870s and 1880s. By the 1880s, Zion Baptist Church had spread its community reach into the Colorado prison system under the pastorship of Reverend William Gray. By the early years of the twentieth century, its congregation numbered around 400 African Americans. "Zion Baptist Church - Historical Sketch," Zion Baptist Church, accessed 4/20/2014, <http://www.zionbaptistchurchdenver.org>.

send with it.”¹³⁵ His second letter to Tarbet, dated December 1, consisted of a list of names for the county commissioners and the repeated suggestion that she should forward his response with her own letter. Although Thomas was surely correct that the political office of the governorship did not invest him with unilateral powers to punish every citizen of Lincoln County, his letters revealed an inflexibility when it came to pursuing justice. In letters to his supporters and constructive critics, he revealed himself to be a man very much in line with his region’s opinion of African American criminals.

In order to understand how Thomas responded to critics and supporters of his administration, this section now turns to the political context of the three 1900 lynchings, specifically by placing Thomas and his letters within the context of the state’s recent abolition of the death penalty. At the turn-of-the-century, a debate with multiple parts was ongoing regarding criminal justice: the first part can be seen in the reactionary capital punishment legislation enacted by the state, the second surrounded the morality of public executions, and the third dealt with the technologies used to execute prisoners. The history of capital punishment in early Colorado was one where individual cases, sensationalized through newspapers and through politics, led legislators to respond retroactively. Since the territory’s first legal hanging in 1863, wherein thousands watched the hanging of William S. Van Horn in Central City, many murderers escaped hanging through a territorial loophole. In 1876, the case of the “Italian Murderers” made this loophole apparent as the three men escaped death by pleading guilty.¹³⁶

Attempting to close this loophole, the legislature repealed the amended 1870 capital

¹³⁵ Letter, Charles Thomas to G.A. Tarbet, Nov. 26, 1900, vol. 29, coll. 8922, Colorado State Archives.

¹³⁶ This loophole, which in this instance was successfully identified and utilized by Charles S. Thomas, in the defense of the Italian murderers, stated that capital punishment could only be applied to defendants convicted of guilt by a jury. Entering a plea of guilty, as Thomas did for the Italian murderers, avoided trial by jury and, thus, meant that the death penalty could not be imposed. Michael L. Radelet, "Capital Punishment in Colorado, 1859-1972," Office of the Colorado State Public Defender, accessed 3/11/2014 <http://pdweb.coloradodefenders.us>

punishment law and replaced it with a new statute, which according to sociologist and death-penalty expert Michael L. Radelet, had “essentially the same provisions but adding a proviso in case the defendant pleaded guilty of murder, a jury should pass on the question of whether the murder was deliberate and premeditated or not. Thus in the case of a positive finding, the death penalty could be imposed.”¹³⁷ Though they sought to close this loophole, Colorado legislators undermined the standing of the law they imposed by repealing the amended statute by not including a clause which held that the sentences of those convicted prior to the enactment of this new law would still stand. Thus, when Alferd Packer, the Colorado cannibal, came to trial, he appealed on these very grounds. Accused of having killed and eaten members of a gold-hunting expedition after they were caught in a blizzard outside of present day Lake City, Colorado, Packer was not given the death penalty, but forty-years for manslaughter. Radelet reveals that after this “flawed death sentence... the legislature finally corrected the statute to allow capital punishment for defendants who pled guilty.”¹³⁸ After 1883, the loophole was successfully closed.

Another item of contention in criminal justice at this time was the public nature of executions. Radelet explains that “legal executions regularly attracted audiences of between one thousand and five thousand spectators.”¹³⁹ Like the lynchings in the Jim Crow South, public executions in Colorado served an important social function. Attracting hundreds and thousands of spectators—men, women, and children—they held significant entertainment value. Meanwhile, as Radelet correctly notes, some northeastern cities were beginning to abolish public executions and “some civic leaders feared that the spectacle of a public hanging would tarnish the

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

image of the progressive, cosmopolitan city that Denver was trying to cultivate.¹⁴⁰ Legislators and prominent business interests in Denver feared that having a large public gathering witness hangings and using them as a form of entertainment meant that out-of-state investors would think their city barbaric and avoid it altogether. Making a carnival out of a public execution called into question the humanity and morality of the death penalty.

Technology also figured centrally in debates regarding humane killings. Citizens and legislators argued over the best means by which to hang offenders. On one end was the “long drop” method, the traditional technique in which an offender was dropped from a platform to either a quickly-broken neck or a long strangulation. Wishing to do away with the potential strangulation, the other side of the debate favored the “twitch-up” method in which the offender stood on the ground with a noose around his neck. The rope, attached to a heavy counterweight, would jerk the offender up so swiftly that it would surely break the inmate’s neck. Or, at least, that was the theory. In 1886, a crowd between fifteen and twenty thousand people watched the twitch-up hanging of Andrew Green, sentenced to death for murder. Although the counterweight weighed 310 pounds, excessive slack in the rope attenuated the jerk needed to break a man’s neck. Green strangled over the period of twenty-three minutes.¹⁴¹

With the twitch-up method in doubt, the legislator centralized hangings, made them private, and brought them indoors.¹⁴² This legislation also restricted the public’s access to hangings. Indeed, by 1889, capital punishment in Colorado had effectively become secret. It was limited to a small group of witnesses who were bound by law to keep the details private. Michael Radelet describes the 1890 execution of Noerto Griego, the first man hanged after the centralization and privatization of state-sanction killing: “In supervising the execution, Warden

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

J.A. Lamping followed the law closely by not disclosing in advance the time of the hanging and by keeping secret all of the details of the hanging after it occurred. The warden could invite only six people—all men—to attend executions, none of whom were representatives of the press and all of whom were sworn to secrecy.”¹⁴³

Colorado legislators were not merely content to centralize hangings; instead, they had placed a moratorium on capital punishment altogether. From 1892 to 1895, the Populist governor Waite Davis made his opposition to the death penalty well known and refused to allow the hanging of any man so sentenced. This moratorium was followed by the abolition of capital punishment in 1897, signed into law by Democratic governor Alva Adams.

As governor of Colorado in 1900, Charles S. Thomas oscillated between being a tough opponent of crime and a force for social reform. Where he started out with complete apathy—“I have nothing to my regarding the case. Positively nothing.”¹⁴⁴—Thomas’s private statements—transitioned into partisan attack and, alongside this attack, came his own thoughts on how criminals should be dealt with. Responding to Reverend M. Gregg of New Orleans, Louisiana in the wake of Porter’s lynching, Thomas wrote, “I am free to confess that the ravishing of a child should be summarily and speedily punished with death, but I cannot countenance the conduct of the avengers in this instance.”¹⁴⁵ Thomas responded similarly to W. R. Kivett of Colorado Springs, but also argued for why any sort of examination of the crime was impossible: “as it would require the people who [were] implicated to investigate and punish themselves.”¹⁴⁶ In these letters, we see Governor Thomas walking a line between summary punishment and lynch-law. In the face of soft-on-crime criticism from his Republican political opponents and their supporters,

¹⁴³ Ibid.

¹⁴⁴ *The Denver Times*, Nov. 17, 1900.

¹⁴⁵ Letter, Charles Thomas to Rev. M. Gregg, Nov. 24, 1900, vol. 29, coll. 8922, Colorado State Archives.

¹⁴⁶ Letter, Charles Thomas to W. R. Kivett, Esq., Nov. 24, 1900, vol. 29, coll. 8922, Colorado State Archives.

Thomas found himself relying on the letter of the law to free him from any guilt in Porter's burning. In his letters, Thomas revealed himself to have wanted Porter's death, but not at the hands of a mob and certainly not from burning at the stake.

Thomas was not the only politician to find the burning despicable even as they upheld the ultimate justice of Porter's death. The *Times* gathered together commentary from political and private figures from around the state for their November 17th edition. Secretary of State Elmer F. Beckwith responded, "The negro should have been hung. The burning was out of place."¹⁴⁷ Similarly the Treasurer-elect J.N. Chipley said, "The man should have been hung. Burning at the stake was terrible and I am opposed to such ideas. The people of Colorado will not approve of the brutal death and torture."¹⁴⁸ These Colorado officials supported Porter's death, illegal as it was, but they did not support the techniques used to punish and dispatch him.

But above all, Porter's death became fodder for the political debate over the recent abolition of capital punishment and Colorado's seeming lack of harsh punishment for killers and rapists. The mayor of Denver, Henry V. Johnson, said, "I honestly believe it was what could naturally be expected in a state which has repealed its capital punishment law... Had the laws of our state provided punishment in any way adequate for the crime for which Porter committed, then the officers could have argued with the enraged people and in all probability [sic] prevented what occurred."¹⁴⁹ Mayor Johnson's opinion regarding the relationship between a state that had repealed capital punishment and sporadic lynchings was not uncommon within the political and private spheres. He saw the death penalty as a punitive tool in which representatives of the law might negotiate with a community on the verge of lynching. With this tool in hand, the law could appease the mob's vengeful side, and thus preserve social order.

¹⁴⁷ *The Denver Times*, Nov. 17, 1900.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

The debate over the death penalty and its supposed power to deter lynching formed a counterpoint to Colorado's culture of lynching, by revealing two attempts to deter or redirect lynching culture. It was through this debate that sentimentalist reformers sought to do away with both illegal lynching and state-sanctioned executions. It was through this debate that a conservative element argued that without capital punishment, Colorado's culture of lynching would go on unabated. Before looking more fully at this debate, this thesis turns to the death of Thomas Reynolds, a white inmate of the Colorado State Penitentiary, who was lynched by a mob in Cañon City after escaping with three others. His death, combined with Porter's and Kimblern's, revealed how the debate over the death penalty interacted with the culture of lynching, with reformers trying to abolish lynching culture and death penalty advocates trying to redirect mob violence into state executions.

Prison Break: The Lynching of Thomas Reynolds

Early in 1900, a single event gripped the state of Colorado: the escape of a small group of inmates from the Colorado State Penitentiary in Cañon City. On January 22, after a week of planning, four prisoners—Thomas Reynolds, C. E. Wagoner, Antone Woode, and Kid Wallace—broke out of the Colorado State Penitentiary. During their escape, the men killed a guard captain, William C. Rooney, and cut power to the prison lights. Looking back on the event, it's all rather undramatic: most of the men were captured within just a few days of their escape. One escapee, Wagoner, vanished, likely dying from exposure soon after the escape.

The escape provoked considerable concern. First, the escapees had murdered a guard as they fled the prison. Second was the manner of their escape in which they cleverly sabotaged the function of the prison lights. Third was the revelation that such an escape had for the local

community and the state: the prison was not secure. True, the escapees murdered a guard to get out, but what about the other guards who were stationed nearby? Was the penitentiary understaffed, ineffectual, or both? Newspapers confronted all of these issues directly, questioning the stock and fitness of Cañon City's prison guards: "Sheepherders and men disabled for physical labor do not make good prison guards"¹⁵⁰ and "there has been too much laxness both in the courts and in the penitentiary discipline and reforms are to be hoped for in both."¹⁵¹ Governor Charles Thomas released a statement, promising a reward for the capture of these escapees, in addition to the sum already promised by the penitentiary's Warden Hoyt.¹⁵²

Within three days, local authorities in Victor apprehended Kid Wallace and Antone Woode. The two escapees had separated from Reynolds and Wagoner in an attempt to throw authorities off their trail. A local man, a former penitentiary guard named Canterbury, noticed the pair passing through town. He was instantly suspicious as the two men, covered in soot and grime, made their way in the January cold without coats, one not even wearing a hat. Canterbury, employing the help of Victor's Sheriff Higgins, found the pair by a camp fire outside of town later that evening as one slept and the other stood guard. It did no good; the two Victorians apprehended the escapees with ease and saw them transported back to the state penitentiary.¹⁵³

The newspapers, reporting the incident on the 25th, tempered the celebratory news with the knowledge that two of the convicts remained on the loose. A mere two days later, reports came in that both Reynolds and Wagoner had been captured. Both men were found in Florence, ten miles from the Penitentiary, with the intention of boarding a train to Pueblo. During the capture, Wagoner escaped. Perhaps it was this further escape that incited the mob in Florence to

¹⁵⁰ *The Denver Times*, January 25, 1900.

¹⁵¹ *The Denver Times*, January 27, 1900.

¹⁵² Reward Letter, Charles S. Thomas, vol. 25, coll. 8922, Colorado State Archives.

¹⁵³ *The Denver Times*, January 25, 1900.

gather with the intention of preventing Reynolds from returning to the penitentiary alive. The Florence authorities were too quick, however, securing Reynolds within a buggy which transported him back to Cañon City.

And yet the victory of formal law over the lawless mob proved all too short-lived. As soon as word reached Cañon City of Reynolds's return, a crowd of five hundred men and women assembled, greeting him with a noose and a telegraph pole. The crowd hoisted the prisoner up straightaway, letting him strangle for a few minutes before letting him down. News accounts reported that the crowd grew even more frenzied as the doomed man refused to beg, plead, make amends, or confess. Reynolds asked for a cigarette. His refusal to cooperate was interpreted as a representation of his cold-hearted, unrepentant, and murderous nature; the crowd surged: "quietness gave way to shrills and hoots, several shots [were] fired in the vicinity of the penitentiary, presumably to cause a sensation, and the fire alarm bell was rung several times."¹⁵⁴ The crowd hauled him up once more, hanging the man until he died. A group of men stationed themselves around the hanging body to make sure that nobody took him down: "the infuriated mob had made up their minds that an example should be made of Reynolds for the benefit of the other convicts and the general good of the community."¹⁵⁵

The apologies soon came in. Newspapers around the state began to make excuses for the lynching even as they condemned it: "The Canon City citizens who took the law into their own hands felt that there has been too much leniency shown criminals in this state...Prisoners at the penitentiary are accorded too many privileges, and escape, legal or otherwise, has been made too easy."¹⁵⁶ Factually, such apologies were correct; Stephen J. Leonard notes in *Lynching in Colorado* that "of around 100 men sent to Canon City for murder or manslaughter between 1871

¹⁵⁴ *The Denver Times*, January 27, 1900.

¹⁵⁵ *Ibid.*

¹⁵⁶ *The Denver Times*, January 28, 1900.

and 1884, few stayed in prison more than five years.”¹⁵⁷ Leonard marches through a few examples of such commutations: “Charles Bennett, doomed to life in prison in October 1871, was pardoned in 1879; David Manzaners, also given life in 1871, was freed in 1874. James Wilson got a year for murder in 1871. Norman Patterson, Frederick, Lottes, and Moses Fox—sentenced in 1872—were pardoned in 1874. Rare was the murderer such as George Witherill who served sixteen years of a life sentence before he was released.”¹⁵⁸ It is not terribly surprising that the citizens of Cañon City felt like they bore the brunt of such punitive leniency. It was their community that served as the home to the penitentiary, and the economy and society of the town was tied directly to supplying the prison with workers, guards, and supplies. Disorder at the prison, whether in terms of unduly short prison sentences or ineffective guards, threatened the livelihood of the town. Similarly, it was their community and those nearby which suffered when prisoners escaped. According to the *Denver Times*, “The people of Canon City believed that in self-protection an object lesson should be given these prisoners to make them understand that punishment awaits them outside the walls.”¹⁵⁹

However, the mob’s actions, again according to the newspaper, held another purpose. By making a clear example of Reynolds through his summary, illegal execution, ordinary citizens were saying that “if the law does not provide adequate punishment for criminals the people will.”¹⁶⁰ The *Times* followed this story the next day with compilation of newspaper editorials from around the state calling for the reinstatement of capital punishment. The paper printed opinions from the *Victor Times*, the *Victor Record*, the *Telluride Journal*, the *Trinidad Advertiser*, the *Boulder Herald*, the *Leadville Herald-Democrat*, the *Cripple Creek Times*, the

¹⁵⁷ Stephen J. Leonard, *Lynching in Colorado*, 62.

¹⁵⁸ Ibid.

¹⁵⁹ *The Denver Times*, January 28, 1900.

¹⁶⁰ Ibid.

Trinidad Chronicle-News, the *Pueblo Chieftan*, and the *Colorado Springs Gazette*. The opinions were all of the same type and no paper did a better job in summarizing the call than the *Cripple Creek Times*, which wrote of the “awful necessity” of lynching: “Society has not attained such an advanced state that the moral monstrosity is not produced often enough to make the abatement of capital punishment an invitation to commit crime.”¹⁶¹ Without the death penalty, the newspapers of Colorado were of the opinion that lynchings must needs continue in order to fight the inherently criminal.

While Wagoner escaped permanently, Woode and Wallace were safe at the State Penitentiary. As both Woode and Wallace seemed, on the whole, more dangerous than Reynolds—Woode was the group’s only convicted murderer among the group and Wallace was the group’s most sinister according to the newspapers—their incarceration emphasized the symbolic nature of the Reynolds lynching: “Hanging is not altogether blood atonement for the shedding of blood. Its chief object is to check the hand of the would-be murderer, to hold the horrible gallows before those who value human life lightly. Its purpose is more exemplary than punitive. While it cannot prevent all murder, as no law can prevent all crime, it has more terrors for the average criminal than imprisonment, with the latter’s possibilities of escape or pardon.”¹⁶² Reynolds, like Wallace and Woode, had been caught. His return to the penitentiary was only derailed by the behavior of the mob which lynched him. By taking his life, the community which lived around the penitentiary declared to the inmates inside that they their lives were forfeit should they, too, try to escape.

The next and final analytical section of this thesis places the Reynolds, Kimblern, and Porter lynchings in the context of Colorado’s debate over capital punishment, a debate which

¹⁶¹ *The Denver Times*, January 29, 1900.

¹⁶² *The Denver Times*, January 28, 1900.

pitted two worldviews against one another. In simple terms, the first believed that criminals could be rehabilitated through penitentiaries and social reform movements. The second believed that they could not and that letting them escape death denied the law a powerful deterrent in preventing future crimes. These two worldviews directly confronted Colorado's culture of lynching, the former seeking to destroy, the latter to redirect the inevitable deaths into the hands of the state.

Should the State Kill?

These occurrences seem to illustrate that, while 'legal murder' is certainly inhuman [sic], it is nevertheless sometimes an awful necessity if the lives of law-abiding citizens are to be protected. Society has not attained such an advanced state that the moral monstrosity is not produced often enough to make the abatement of capital punishment an invitation to commit crime.

—*Cripple Creek Times* quoted in *The Denver Times*, January 29, 1900

The editors of the *Cripple Creek Times* denied that humanity had made the moral gains necessary to do away with capital punishment. Their argument went that since capital punishment was abolished in Colorado, the citizenry had no choice but to fall back upon extralegal murder in cases such as Thomas Reynolds's. How else could Coloradoans impart the knowledge to criminals that they would not tolerate callous murder? This argument maintained that the lynching was Reynolds's own fault. Were it not for his own brutal, criminal nature, the crowd would not have had to lynch him. But it also argues that the state and state legislators were at fault as well. By negligently eliminating the death penalty, the Colorado legislature had ensured that lynchings would proceed. In this argument, we can see evidence of Coloradoans wrestling with their own culture of lynching, attempting to alter it by replacing the punitive extra-legal murders that had prompted so much controversy with state-sanctioned executions.

This debate—which touched upon all three lynchings in the state that year—was about the ability of the state to implement criminal justice reform while still keeping its citizens safe.

After the Kimblern hanging, quoting the *Greeley Sun*, the *Aspen Daily Times* wrote, "In these days the people and the legislature is more solicitous for the criminal than for the safety of the innocent. Even when a man is sentenced for a long term he is not permitted to serve it out. The same issue of the paper that recounts the lynching of Kimblern contains letters and pleas for the pardon of Packer."¹⁶³ The concern of the *Greeley Sun* was well established. The turn of the century was a time of reform across society as a whole. With the rise of the Anti-Saloon League in 1893, an organization which sought to curb not only intoxication, but vices of all kinds—prostitution, gambling, domestic violence, government corruption—through legislation, Americans everywhere saw a shift in politics at the state and national level.¹⁶⁴

These reforms were taking place not only on the progressive side, but also the conservative end of the political spectrum. For instance, immediately prior to the turn of the century, the Populist movement blended itself with the power of the Democratic Party--fused in order to reform the entangled relationship between big business and government.¹⁶⁵ While the Populists fought for farmers' rights and for the disentanglement of business and government, progressives sought to reform society on many levels. Along with temperance, women's suffrage, and education reform, progressives fought poverty and criminal recidivism by trying to reform the society as a whole. Rather than seeing the poverty and crime as the direct results of individual choice, Progressives viewed these elements as systemic. By providing housing and education for the poor, a famous example being Jane Addams and Chicago's Hull House founded in 1889.¹⁶⁶

¹⁶³ *Aspen Daily Times*, May 29, 1900.

¹⁶⁴ Robert D. Johnston, "The Possibilities of Politics: Democracy in America, 1877-1917," in *American History Now*, ed. Eric Foner et al. (Philadelphia: Temple University Press, 2011), 96-124. Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America 1870-1920* (New York: Free Press, 2003).

¹⁶⁵ According to historian Charles Postel, what had started out as "less a typical political party than a coalition of reform organizations"--a conglomeration of the farmers' alliances and industrial unions--morphed into a powerful piece of the Democratic Party's base in 1896. Charles Postel, *The Populist Vision* (Oxford: Oxford University Press, 2007), 12.

¹⁶⁶ James Hurt, "Introduction," in Jane Addams, *Twenty Years at Hull House* (Champaign: University of Illinois

The abolition of capital punishment was an extension of these reforms, one with deep roots in the sentimentalism of antebellum reformers.¹⁶⁷

These sentimentalists found that the state-sanctioned murder of the accused—whether guilty or innocent—inflicted moral blight upon the whole of society. Since their goal was to lift up the morality of America, the death penalty must be abolished.¹⁶⁸ Rooted in the word “penitence,” penitentiaries—institutions in which convicted criminals were isolated and forced to reflect upon their crimes and their lives—offered an alternative method of punishment. They were meant to be places where one could reform one’s soul, thus avoiding the extreme measure of the death penalty. The state penitentiary then too was at the heart of this argument of capital punishment. Progressive reformers had made significant gains by centralizing executions and by hiding them from public view and from the media. However, these gains were met with pushback from a conservative vision of society, one which thought that society could not be so easily uplifted.

A surprising articulation of this conservatism came in James Elbert Cutler’s 1907 article on capital punishment and lynching. Cutler, a great repudiator of lynch-law, argued in favor of the death penalty. His argument was utilitarian in nature. Its premise read thus, “it is argued that capital punishment prevents reparation in cases of subsequently proven innocence. It is also said that capital punishment is a relic of barbarism. As civilization has advanced, punishment has

Press, 1990), ix-xix.

¹⁶⁷ Although scholars of sentimentalism often focus on women and the abolition of slavery, there were many such authors concerned with the death penalty: Child, Ann S. Stephens, and Elizabeth Oakes Smith, among others. In his discussion of the fiction of E.D.E.N. Southworth, the 19th-century American writer, the American Literature Scholar Paul Christian Jones focuses on how Southworth “offers her readers plots that illustrate the injustice, immorality, and inefficacy of capital punishment and that argue for its abolition through their sentimental depictions of characters—both guilty and innocent—facing the gallows.” Paul Christian Jones, ““I put the fingers around my throat and squeezed it, to know how it feels”: Antigallows Sentimentalism and E.D.E.N. Southworth’s *The Hidden Hand*,” *Legacy*, Vol. 25, No. 1 (2008): 41.

¹⁶⁸ Ibid, 47.

always become less severe. The old law of retaliation is now obsolete.”¹⁶⁹ Such, according to Cutler, was the premise of the sentimentalist progressives, who thought that capital punishment served no future purpose. Cutler, however, attacked this assumption. His argument against them was rooted in racism and social standing. He looked to the lynchings of the South to see how the death penalty might still be applicable. Seeing in the South, a rise in crime and criminality among the recently emancipated African American population, Cutler wrote, “In the midst of the increased criminality that has been manifested among negroes since emancipation, the Southern whites have found the law and its administration unsuited to the function of dealing with negro criminals—hence, the frequent adoption of summary and extra-legal modes of punishment.”¹⁷⁰ Cutler argued that the abolition of the death penalty would only work in a society which had gotten rid of its criminal elements to a great extent: “whenever unusually brutal and atrocious crimes are committed, particularly if they cross racial lines, nothing less than the death penalty will satisfy the general sense of justice that is to be found in the average American community.”¹⁷¹ In essence, the repeal of capital punishment was fine for a society completely made up of upper-class white men and women, but as long as a strong criminal element remained among African-Americans, abolition would yield lynch-law.

In 1899 there was a symposium on the death penalty in the *Legal Adviser*, a Denver-based monthly magazine for businessmen, lawyers, and politicians. The editors of the *Adviser* gathered together famous attorneys and political figures from around the state to discuss the proposed Stewart bill which called for the reinstatement of a modified capital punishment

¹⁶⁹ James Elbert Cutler, "Capital Punishment and Lynching," *Annals of the American Academy of Political Science*, Vol. 29 (May, 1907): 182.

¹⁷⁰ Ibid.

¹⁷¹ Ibid, 185. Cutler argued that African Americans were “a child race” in the sense that, having been kept in childlike during their enslavement, they had not had the centuries of civilizing growth that white Americans had achieved. He does not propose a way to get rid of criminality among African Americans except to imply that it would take several centuries of social evolution.

law. Before 1897, a jury would determine the guilt or innocence of the accused. Upon finding him guilty, the judge would then decide upon the punishment, life imprisonment or death. The Stewart bill changed this system to address the concerns of *Rocky Mountain News* owner (and future US Senator) Thomas MacDonald Patterson and others. Patterson found that under the old system which did not have a jury deciding a guilty person's fate, "hangings were doubtless too many, and their number aroused the sentiment which led to the repeal of the death penalty."¹⁷² Upon finding the defendant guilty, the jury would then deliberate upon whether it was murder in the first or second degree. They would then also fix the punishment, sentencing the convicted murder to either life imprisonment or death.¹⁷³ Hugh Butler, future president of the Denver Bar Association, agreed, writing, "I do not believe that the death penalty should be inflicted in all cases of homicide, even if they should come under the technical definition of murder. The jury which finds a verdict of guilty should be permitted to say whether the punishment should be death or life imprisonment."¹⁷⁴ By placing the sentencing in the hands of the jury, these death penalty supporters wished to modify the old system so that the death penalty would not be applied because of the finding of guilt of murder, but rather through the deliberation of a jury that this was an appropriate punishment in each case.

The most anti-death penalty of the commentators in the symposium was former (and future) Governor Alva Adams (father of Senator Alva B. Adams), the same governor who happily signed the abolition of capital punishment two years before the debate. He viewed the death penalty repeal as the most forward step in criminal legislation that has yet been taken in

¹⁷² "Capital Punishment, Symposium," *The Legal Adviser*, vol. 2, no. 6 (Feb., 1899): 235.

¹⁷³ "Criminal Code: Capital Punishment, H.B. No. 71 by Mr. Stubbs," *Session Laws of Colorado* (Denver, Colorado), 154.

¹⁷⁴ "Capital Punishment, Symposium," *The Legal Adviser*, vol. 2, no. 6 (Feb., 1899): 235.

Colorado.”¹⁷⁵ Rather than constructing a moral argument, Adams instead chose to use an instrumentalist argument over why the state should retain abolition. First, he believed that the two years of abolition were not enough to decide whether or not the experiment was successful; more time was needed to collect data. Second, he argued that when capital punishment had been the law, it was ineffective. He argued that one or two objectors would always be found on a jury of twelve. This, he wrote, led to an increased number of hung juries and acquittals on technicalities. Furthermore, with the defendant’s death in the balance, their counsellors used every wily tactic they could to stall and thwart the legal system; for instance, “out of the twenty-five murderers condemned to be hung in Colorado since the building of the execution house in the penitentiary, thirteen have been reprieved by court or governor.”¹⁷⁶ Adams related these reprieves to the mischievousness of defense attorneys.

From the numbers, Adam’s argument turned toward why the death penalty itself was ineffectual: “Nothing is so appalling to a criminal as certainty of a life sentence, with no hope of pardon... The old system the jury removed all responsibility for him, and... the number who suffered the supreme penalty for murder was so small in proportion to the murders committed, that the hazard was rather inviting to the gambling instinct of the ordinary criminal.”¹⁷⁷ In other words, the fact that so many convicted murders were not killed by the state allowed potential murderers to see that the state might not adequately punish them. This uncertainty of punishment meant that potential murderers, of a low and reckless class to begin with, might more readily chance the opportunity to get away with murder.

Another instrumentalist argument was presented by Denver attorney Horace N. Hawkins,

¹⁷⁵ Ibid, 234.

¹⁷⁶ Ibid, 233.

¹⁷⁷ Ibid, 233-234.

who argued that criminal defendants were at a significant disadvantage.¹⁷⁸ Since most could not afford adequate counsel, their attorneys were usually appointed by the court. Rather than having a robust public defender system, these court-appointed attorneys were inadequately skilled for men like Hawkins. Simply put, they were no match for the “experienced district attorney, with all the power of the state at his back, and with deputy sheriffs and hired detectives at his beck and call.”¹⁷⁹ Until such a time as the public attorney could be matched by a public defender, Hawkins found the death penalty unacceptable because it was fundamentally unfair to poorer defendants.

Standing against these anti-death penalty and qualified-death penalty arguments were sentiments such as those expressed by Eighth Federal District Judge Jay H. Boughton. He found the proposed Stewart bill to be unacceptable because it did not go far enough in its punishment: “I am unqualifiedly in favor of the restoration of the law as it stood before the act of 1897 abolishing capital punishment, without any limitations or dependence upon the haphazard maudlin sentiments of juries, as provided for in the Stewart bill.” In Boughton’s opinion, “the death penalty should be inflicted in all cases of conviction of murder in the first degree.”¹⁸⁰ In Boughton’s argument one can see the conservative worldview of interpretation of criminality exposed. Murder should have been fought with execution; juries could decide guilt or innocence, but they were too emotional, too apt to decide that capital punishment was barbaric and thus not apply it, to decide the sentence itself.

The debate over the reinstatement of capital punishment was not confined to the pages of

¹⁷⁸ Hawkins was an active member of the Denver legal community. He became a partner in the law firm of Senator Thomas Patterson and Edmund F. Richardson in 1895 until Patterson retired and Richardson died in 1911. More information can be found in the biography contained in Wilbur Fiske Stone, *History of Colorado vol. II* (Denver: S. J. Clarke Publishing Co., 1918), 130-131.

¹⁷⁹ “Capital Punishment, Symposium,” *The Legal Adviser*, vol. 2, no. 6 (Feb., 1899): 236.

¹⁸⁰ *Ibid*, 234.

a legal symposium, but was present during each of the lynchings in Colorado in 1900. Starting in January with the hanging of Thomas Reynolds, the *Denver Times* wrote of the frustration of the Canon City citizenry who were frustrated by the “leniency shown criminals in this state, where sentimentality has overbalanced common sense.”¹⁸¹ The death penalty’s abolition three years before, the frequent pardons a string of governors had issued, and the common granting of parole were all examples of how the state had failed to properly punish its criminals. The *Times* continued, “The people of Canon City believed that in self-protection an object lesson should be given these prisoners to make them understand that punishment awaits them outside the walls. The lynchers also had in mind a hint to the legislature that if the law does not provide adequate punishment for criminals the people will.”¹⁸² The Reynolds lynching sent a message not only to the convicts inside the penitentiary, but also to the state legislature: quick and illegal punishment would stand as a substitute for an inadequate legal system.

Such arguments also circulated following the death of Calvin Kimblern. As the editors of *The Greeley Sun* intoned, “Human sense of justice rebels at such a state of affairs and causes the people to take the matter out of the courts and execute a sentence without a law which no sentimental governor or board of pardons or careless prison officials an [sic] ever reverse or annul.”¹⁸³ One of Thomas M. Patterson’s papers, *The Denver Times*, compiled commentary from public figures and private citizens. One citizen wrote in that “it is not a question of whether capital punishment is right, or whether it is not demoralizing and degrading,” rather the question this citizen noted was whether society had advanced to a stage of civilization which could afford to abandon the death penalty.¹⁸⁴ These papers argued that murderers existed, the rosy worldviews

¹⁸¹ *The Denver Times*, Jan. 28, 1900.

¹⁸² *Ibid.*

¹⁸³ *The Denver Times*, May 29, 1900.

¹⁸⁴ *The Denver Times*, May 31, 1900.

of progressive reformers notwithstanding; the repeal of capital punishment sent a message to Colorado's criminals that they could literally get away with murder. Lynching, on the other hand, sent an equally powerful message to these would-be murderers that private citizens would fill the legal void--that they were perfectly willing to mete out harsh punishments if the State of Colorado neglected to do so.

And, finally, with the lynching of John Preston Porter, Jr., the argument for the reinstatement of capital punishment flared up once more. *The Creede Miner* wrote, "under the law the limit of punishment which may be doled out to this double-dyed criminal is life in the penitentiary. The sentimentalists have foisted the statute upon the people and held to the opinion that under all circumstances this punishment is adequate... We expect to see capital punishment rehabilitated in our laws at no distant day."¹⁸⁵ Similarly, the *Leadville Herald-Democrat* noted the mistake of repeal:

Public sentiment did not call for [the death penalty's] repeal; the state of society at large did not warrant it. Colorado was not set upon such a high pinnacle above all the world that she could afford to radically reform ancient Mosaic law. It was one of the many acts of folly that were committed under the cloak of reform a few years ago and this state must pay the penalty. So long as degenerate brutes roam at large, so long will the strong arm of law be needed to punish them. When the law has been emasculated the mob will take its place, and the frightful, unspeakably degrading [events] of yesterday will be enacted.¹⁸⁶

The reforms enacted by the legislature, instead of inaugurating societal uplift, had actually brought about no little degradation. The *Leadville Herald-Democrat* pointed to the new opportunities for the "degenerate brutes" of Colorado. Should they continue take advantage of the softer punishments, society would respond in a convulsion of lynching. Thus, the brutes would drag society as a whole down the ladder of civilization.

After the three lynchings of 1900, the Colorado legislature passed House Bill No. 71 in

¹⁸⁵ Reprinted in *The Denver Times*, Nov. 19, 1900.

¹⁸⁶ Ibid.

early 1901. The bill repealed the abolition of capital punishment and amended the old bill to make the jury responsible for determining guilt, fixing the degree of murder, and deciding the punishment. It passed through the legislature by a wide margin of forty-one to twenty-four. The bill's sponsor, Stubbs, "referred feelingly to the parents of Louise Frost."¹⁸⁷ Stubbs's invocation of the Frost family directly referenced lynching as part of the bill's passage. James B. Orman, the Democratic governor who succeeded Charles Thomas, refused to sign the bill into law. Nevertheless, it passed without his signature after a short waiting period. The conflict between the criminal justice reform and the harsh punishment seemed to be resolved for the time being. Coloradoans once more had a fatal punishment for murderers. Over the next twenty years, lynching did indeed fall out of favor in Colorado, becoming less and less frequent. The state's last recorded lynching occurred in 1919 while lynchings in the Jim Crow South continued unabated.¹⁸⁸ The culture which had allowed lynchings to infrequently occur was successfully transformed incorporated back into legal system.

¹⁸⁷ *Denver Post*, Feb. 9, 1901, quoted in Michael L. Radelet. "Capital Punishment in Colorado: 1859-1972," Office of the Colorado State Public Defender, accessed 3/11/2014. <http://pdweb.coloradodefenders.us>.

¹⁸⁸ Stephen J. Leonard, *Lynching in Colorado*, 160.

CONCLUSION: THE LEGACIES OF LYNCHING AND CAPITAL PUNISHMENT

In 1900, large groups of Coloradoans gathered together to murder three men on three separate occasions. Thomas Reynolds—a white man, convicted felon, prison escapee, and abettor of the murder of a prison guard—Calvin Kimblern—an African American man, accused of sexually assaulting and almost certainly guilty of murdering two orphans and attempting to kill his wife—and John Preston Porter, Jr.—an African American boy accused of sexually assaulting and murdering a white thirteen-year-old and whose guilt was much more questionable than Kimblern's. These lynchings were made possible by a culture of lynching in Colorado. The murders sought to preserve a status quo, delineating social and racial boundaries and marking the heinous nature of these men's crimes, alleged or true.

Communities participated in and witnessed the murders, performing a kind of ritual of torture and purgation while also using them as a form of entertainment and leisure. The murders continued to fuel a debate over the effectiveness of state-sanctioned executions. Both sides of the debate, those for and those against reinstatement of the death penalty in Colorado, engaged with the culture of lynching. The sentimentalist reformers who wished the death penalty's abolition to continue sought to deny the culture's diffusion in Colorado. Their conservative opponents constantly pointed to lynchings and argued that they indicated that society had not reached so advanced a stage of civilization as to make the death penalty unnecessary. The conservatives' pessimistic view of humanity, one in which criminals would continue to engage in depravity and the violation of social norms, sought to alter the culture of lynching by redirecting collective murder into the death penalty. It was within the legal system where they wished to see society symbolically destroy its enemies and violently demarcate social boundaries. To an extent, they

seem to have succeeded.

The late-twentieth and early twenty-first centuries have seen resuscitation of this debate as pro- and anti-death penalty advocates continue to argue over the morality and effectiveness of legal executions. The State of Colorado executed Luis Monge by gas chamber in Colorado in 1967 for killing his wife and three of his children. He was the last man executed in the United States before the Supreme Court's *Furman v. Georgia* decision in 1972 which placed an effective moratorium on the death penalty for several years. Since Monge's death, Colorado has executed only one man, Gary Lee Davis, in 1997 for rape and murder. Today, three men await execution on death row; one of them, Nathan Dunlap, has been waiting since his sentence in 1996.¹⁸⁹ Anti-death penalty groups argue that this infrequency of use indicates an inherent arbitrariness to capital punishment's current application; pro-death penalty groups, on the other hand, argue that this shows the system is working.¹⁹⁰ These arguments are currently ongoing. In July 2012, James Eagan Holmes killed twelve people at a movie theater in Aurora, Colorado. The shooting, which held the United States' media in its thrall at the time, continues to grab headlines: "Death Penalty Plan for James Holmes Applauded with 'I Want Him Dead,'" "Death Penalty is Sought in Shooting at Colorado," and "Lawyers for James Holmes seek to Throw out the Death Penalty." At this rate, if Holmes is convicted of a capital crime, he will die under the condition of life imprisonment while serving his time on death row. Nevertheless, a great and heated debate continues as to the legality, morality, necessity, and utility of state execution.

In November 1900, a grieving father lit the first match of the conflagration which took John Preston Porter, Jr.'s life. In February 2014, District Court Judge Richard B. Caschette denied a grieving father and mother—the parents of Eric Autobee, a corrections officer who was

¹⁸⁹ "Death Row," Colorado Department of Corrections, accessed 4/23/2014, <http://www.doc.state.co.us/death-row>.

¹⁹⁰ John Ingold, "Colorado death penalty law unconstitutional, study contends," *Denver Post*, August 6, 2012. accessed March 21, 2014, www.denverpost.com.

murdered by inmate Edward Montour—the right to tell jurors that they oppose the death penalty, despite the fact that victim’s families routinely deliver testimony when they favor the death penalty.¹⁹¹

In the Holmes trial and the denied testimony of Eric Autobee’s parents, one can see that the debate over the effectiveness and morality of capital punishment continues in present-day Colorado and across the United States. Colorado seems to have successfully purged its culture of lynching; after the turn of the century, Colorado lynchings became less frequent and have not occurred since 1919. However, the infrequency with which Colorado prosecutors seek the death penalty, and the state actually then applies it to those so sentenced, indicates that the death penalty serves a symbolic rather than practical function.

¹⁹¹ "Order re P-146 D-434 [2014-02-26]." Published by cbsradionews, accessed March 20, 2014, www.scribd.com.

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